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Scott Livingston



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Rules of Governmental Agencies

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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1996

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1995	Dec. 26, 1995	1	Jan. 5, 1996	June 25, 1996	July 2, 1996	28	July 12, 1996
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Apr. 30, 1996	May 7, 1996	20	May 17, 1996	Nov. 4, 1996	Nov. 12, 1996	47	Nov. 22, 1996
May 7, 1996	May 14, 1996	21	May 24, 1996	Nov. 12, 1996	Nov. 19, 1996	48	Dec. 2, 1996 (Mon.)
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June 18, 1996	June 25, 1996	27	July 5, 1996	Dec. 23, 1996	Dec. 31, 1996	2	Jan. 10, 1997

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT OF EMPLOYMENT SECURITY
NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Determination Of Unemployment Contributions
- 2) Code Citation: 56 Ill. Adm. Code 2770
- 3) Section Number: Proposed Action:
2770.110 Amended Section
- 4) Statutory Authority: 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701.
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Part 2770 announces the 1997 contribution rates for newly liable employers by classification within their Standard Industrial Code. In keeping with our commitment to the Joint Committee on Administrative Rules, we are also repealing the obsolete subsection with the rates for 1991 as it is no longer needed.
- 6) Will the proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this Rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: All persons who submit a request to comment regarding this proposed amendment within 45 days after this notice has been published in the Illinois Register will be given a reasonable opportunity to submit data, views, arguments or comments. The comment shall be addressed to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
401 South State Street - 2nd Floor South
Chicago, IL 60605
312-793-4240

12) Initial Regulatory Flexibility Analysis:

- A) Types of small business, small municipalities and not for profit corporations affected: The proposed rules affect all businesses equally.
- B) Reporting, bookkeeping or other procedures required for compliance:

DEPARTMENT OF EMPLOYMENT SECURITY
NOTICE OF PROPOSED AMENDMENT(S)

- None.
- C) Types of professional skills necessary for compliance: None.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996
- The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER C: RIGHTS AND DUTIES OF EMPLOYERS

PART 2770

DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS

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2770.100	Contribution Rate For Non Experience-Rated Employers
2770.105	Average Contribution Rates By Standard Industrial Classification (SIC) Codes

SUBPART C: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section	Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)
2770.150	Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)
2770.155	Adjustment Of Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)
2770.160	Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)
2770.165	Appeals (Repealed)
2770.170	

SUBPART E: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO SUBSEQUENT EMPLOYER (Repealed)

Section	Definitions (Repealed)
2770.400	Application of Base Period Wages (Repealed)
2770.405	Restriction On Benefit Wage Transfers (Repealed)
2770.410	Benefit Wage Transfer Procedural Requirements (Repealed)
2770.415	Petition For Hearing (Repealed)
2770.420	

SUBPART F: BENEFIT WAGE CANCELLATIONS

Section	Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act
2770.501	

TABLE A
General SIC Classifications

AUTHORITY: Implementing and authorized by Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700, and 1701 of the Unemployment Insurance Act [820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701].

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

SOURCE: Emergency rules adopted as 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 550, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 8208, effective May 30, 1984; recodified from 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 15030; emergency amendments at 8 Ill. Reg. 15088, effective August 8, 1984, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 22139, effective October 26, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24117, effective November 30, 1984; amended at 9 Ill. Reg. 4507, effective March 25, 1985; amended at 10 Ill. Reg. 6935, effective April 14, 1986; amended at 10 Ill. Reg. 21683, effective December 15, 1986; amended at 11 Ill. Reg. 9878, effective May 11, 1987; emergency amendments at 12 Ill. Reg. 210, effective January 1, 1988, for a maximum of 150 days, expired May 30, 1988; amended at 12 Ill. Reg. 11213, effective June 20, 1988; amended at 12 Ill. Reg. 12473, effective July 15, 1988; amended at 12 Ill. Reg. 18143, effective October 27, 1988; amended at 12 Ill. Reg. 20477, effective November 28, 1988; amended at 13 Ill. Reg. 11507, effective June 29, 1989; amended at 14 Ill. Reg. 2038, effective January 19, 1990; amended at 14 Ill. Reg. 18280, effective October 30, 1990; amended at 15 Ill. Reg. 172, effective December 28, 1990; amended at 15 Ill. Reg. 8553, effective May 24, 1991; amended at 16 Ill. Reg. 118, effective December 20, 1991; amended at 17 Ill. Reg. 295, effective December 28, 1992; amended at 18 Ill. Reg. 250, effective January 1, 1994; amended at 18 Ill. Reg. 17473, effective January 1, 1995; amended at 20 Ill. Reg. 350, effective January 1, 1996; amended at 20 Ill. Reg. _____, effective January 1, 1997.

SUBPART B: STANDARD INDUSTRIAL CLASSIFICATION

Section	2770.110	Average Contribution Rates	By	Standard	Industrial
Classification (SIC) Codes					

a) The average contribution rate for each Economic Division--excluding the fund-building rate as set forth in Section 1506.3-95-the Act--for calendar year 1991--as determined by the application of Section 2770.105(a)(4) of this Part--shall be:

Digits	Economic Division	Rate
01-09	Ar--Agriculture--Forestry	3-10
	Fishing	
10-14	Br--Mining	4-30
15-17	Cr--Construction	3-70
20-39	Br--Manufacturing	2-20
40-49	Br--Transportation--Communication--Electric--Gas	2-50
	Sanitary--Services	
50-51	R--Wholesale--Trade	1-70
52-59	Gr--Retail--Trade	1-00
60-67	H--Finance--Insurance--Real Estate	1-30
70-89	I--Services	1-50

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91-97 ~~Public-Administration~~ 2-00
99 ~~Nonclassifiable-Establishments~~ 2-10

b) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1992, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	2.9%
10-14	B. Mining	3.8%
15-17	C. Construction	3.5%
20-39	D. Manufacturing	2.0%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.3%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.6%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.3%
91-97	J. Public Administration	1.7%
99	K. Nonclassifiable Establishments	2.1%

b) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1993, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.6%
15-17	C. Construction	3.7%
20-39	D. Manufacturing	2.2%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.2%
50-51	F. Wholesale Trade	1.6%
52-59	G. Retail Trade	1.4%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.3%
91-97	J. Public Administration	1.5%
99	K. Nonclassifiable Establishments	1.8%

c) The average contribution rate for each Economic Division, excluding

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NOTICE OF PROPOSED AMENDMENT(S)

the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1994, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.5%
10-14	B. Mining	4.1%
15-17	C. Construction	4.4%
20-39	D. Manufacturing	2.7%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.6%
50-51	F. Wholesale Trade	2.0%
52-59	G. Retail Trade	1.6%
60-67	H. Finance, Insurance, Real Estate	1.4%
70-89	I. Services	1.5%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	1.9%

d) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1995, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	4.0%
10-14	B. Mining	4.5%
15-17	C. Construction	5.0%
20-39	D. Manufacturing	3.2%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	3.0%
50-51	F. Wholesale Trade	2.4%
52-59	G. Retail Trade	1.9%
60-67	H. Finance, Insurance, Real Estate	1.7%
70-89	I. Services	1.8%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.5%

e) The average contribution rate for each Economic Division, excluding

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1996, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.9%
10-14	B. Mining	4.3%
15-17	C. Construction	4.7%
20-39	D. Manufacturing	2.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.7%
50-51	F. Wholesale Trade	2.2%
52-59	G. Retail Trade	1.7%
60-67	H. Finance, Insurance, Real Estate	1.5%
70-89	I. Services	1.7%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.4%

f) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1997, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.2%
10-14	B. Mining	3.6%
15-17	C. Construction	3.8%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Disqualifying Income And Reduced Benefits
- 2) Code Citation: 56 Ill. Adm. Code 2920
- 3) Section Number: 2920.18
Proposed Action: New Section
- 4) Statutory Authority: 820 ILCS 405/401, 402, 600, 605, 606, 610, 611, 1700 and 1701 (see P.A. 89-446, effective January 1, 1997).
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment establishes procedures and sets deduction priorities to implement an individual's voluntary election to withhold possible federal income tax liability from unemployment benefits.
- 6) Will the proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain an incorporation by reference pursuant to Section 6.02 of the Illinois Administrative Procedure Act? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective? Not Applicable
- 11) Time, Place, and Manner in which interested persons may comment on this Proposed Rulemaking: Persons may comment regarding this proposed amendment within 45 days after this notice has been published in the Illinois Register. The comment shall be addressed to:
Gregory J. Ramel
Illinois Department of Employment Security
401 South State Street - 2nd Floor South
Chicago IL 60605
(312) 793-4240
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities, and not for profit corporations affected: Not affected by proposed rule.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

13) Regulatory agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER 9: INELIGIBILITY FOR BENEFITS

PART 2920

DISQUALIFYING INCOME AND REDUCED BENEFITS

SUBPART A: GENERAL PROVISIONS

Section

2920.1	Definitions
2920.5	Ineligibility To Receive Benefits Due To Performing Full-Time Work Or Due To The Receipt Of Various Income Whose Sum Is Equal To Or Greater Than The Individual's Weekly Benefit Amount
2920.10	Reduction In Benefits Due To Receipt Of Vacation Pay, Holiday Pay, Retirement Pay, And Workers' Compensation Whose Sum Is Less Than The Individual's Weekly Benefit Amount
2920.15	Reduction In Benefits Due To Receipt Of Wages For Less Than Full-Time Work
2920.18	Voluntary Withholding For Federal Income Tax
2920.20	Reduced Benefits: Payment Of Dependents' Allowance Or Spouse's Allowance
2920.25	Payments Made During Shutdown For Inventory Or Vacation Purposes
2920.30	Payments Made In Connection With Separation Or Layoff As, Or In The Nature Of Vacation Pay, Vacation Pay Allowance Or As Pay In Lieu Of Vacation
2920.35	Holiday Pay
2920.40	Payments In Lieu Of Notice Of Separation Or Layoff
2920.45	Severance Pay
2920.48	Residual Payments
2920.50	Back Pay Awards
2920.55	Receipt Of Or Filing For Unemployment Insurance Benefits Under The Laws Of Another State, Canada, Or The United States
2920.60	Supplemental Unemployment Benefits (SUB Pay)
2920.65	Retirement Pay
2920.66	Payments To An Election Judge
2920.68	Payments By A Labor Union
2920.69	Jury Service
2920.70	Retirement Pay Considered Disqualifying Income
2920.75	Allocation Of Retirement Pay
2920.80	Miscellaneous Forms Of Retirement Pay
2920.85	Conformity With Federal Unemployment Tax Act

AUTHORITY: Implementing and authorized by Sections 234, 235, 239, 245, 401, 402, 600, 605, 606, 610, 611, 1700 and 1701 of the Unemployment Insurance Act (see P.A. 89-446, effective January 1, 1997) [820 ILCS 405/234, 235, 239, 245, 401, 402, 600, 605, 606, 610, 611, 1700 and 1701].

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

SOURCE: Adopted at 11 Ill. Reg. 1853, effective January 7, 1987; amended at 12 Ill. Reg. 16066, effective September 23, 1988; amended at 13 Ill. Reg. 1773, effective January 27, 1989; amended at 13 Ill. Reg. 5936, effective April 18, 1989; emergency amendments at 13 Ill. Reg. 11899, effective July 1, 1989, for a maximum of 150 days; emergency amendments to 56 Ill. Adm. Code 2920.5 and 2920.75, expired November 28, 1989; amended at 13 Ill. Reg. 17402, effective October 30, 1989; amended at 15 Ill. Reg. 180, effective December 28, 1990; amended at 15 Ill. Reg. 11416, effective July 30, 1991; amended at 18 Ill. Reg. 4166, effective March 3, 1994; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 2920.18 Voluntary Withholding For Federal Income Tax

a) Whenever an individual voluntarily elects, pursuant to Section 1300 of the Act [820 ILCS 405/1300], to have monies withheld from his unemployment insurance benefits to cover possible federal income tax liability, the amount of benefits subject to federal income tax withholding is the sum of the individual's weekly benefit amount (WBA), following any of the mandatory deductions from unemployment benefits set forth in subsections (a)(1), (2), and (3), plus any spouse or dependents' allowance payable under the Act. The following are the mandatory deductions:

- 1) disqualifying income, including vacation pay, holiday pay, retirement pay, and workers' compensation, under Section 2920.10;
- 2) wages for less than full time work payable to him with respect to such week which are in excess of 50% of his weekly benefit amount;
- 3) one-fifth of the individual's WBA for each day that the individual was unable or unavailable for work as required by Section 402 of the Act.

b) Whenever an individual has voluntarily elected, pursuant to Section 1300 of the Act, to have monies withheld for federal income tax from his unemployment benefits for a period covered by a benefit check, the Department shall withhold 15% of the amount of benefits that are subject to withholding under subsection (a), rounded (if not already a multiple of one dollar) to the nearest dollar. If the product is equally near 2 multiples of one dollar, it shall be rounded to the higher multiple of one dollar. If the individual's benefits for the period, less amounts subject to recoupment under Section 2835.15 and less any involuntary deductions for delinquent child support pursuant to Section 2815.105, are less than 15% of the amount of benefits subject to withholding under subsection (a), the entire amount of the benefits remaining shall be withheld.

- 1) The individual's WBA for each of the two weeks covered by the benefit payment is \$251. The individual receives a dependents' allowance of \$81 for each week. The amount of benefits subject

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT(S)

to federal income tax withholding for the two week period is the sum of \$332 and \$332, which equals \$664. The Department will deduct for federal income tax withholding 15% of \$664 which equals \$99.60, which, rounded to the nearest dollar, is \$100. Accordingly, the individual will receive \$564 in benefits after having \$100 deducted for federal income tax withholding.

Example: The individual's WBA for each of the two weeks covered by the Department's payment of benefits is \$129. The individual receives a dependents' allowance of \$42 for each week.

For the first week of the payment period, the individual has \$90 in disqualifying vacation pay, but in the second week the individual does not have any disqualifying vacation pay.

The amount of benefits subject to federal income tax withholding for the first week is \$129 less \$90 in vacation pay, which equals \$39 plus his dependents' allowance of \$42, which totals \$81. Because the individual did not receive any disqualifying vacation pay for the second week of the period, the amount of benefits subject to federal income tax withholding attributable to the second week is \$129 plus his dependents' allowance of \$42, which totals \$171.

The amount of benefits subject to federal income tax withholding for the two week period is the sum of \$81 and \$171, which equals \$252. The Department will deduct for federal income tax withholding 15% of \$252, which equals \$37.80, which, rounded to the nearest dollar, is \$38.

The individual will receive \$214 for the period after having \$38 deducted for federal income tax withholding.

Example: The individual's WBA for each of the two weeks covered by the Department's payment of benefits is \$129. The amount of benefits subject to federal income tax withholding for each week of the two week period is \$129. The amount of benefits subject to federal income tax withholding for the two week period is \$258, the sum of \$129 and \$129.

15% of \$258 equals \$38.70, which, rounded to the nearest dollar, is \$39.

In this example, assume that the individual has elected federal income tax withholding, that the individual is also subject to recoupment for both weeks in an amount up to 25% of his WBA, which amount is \$32.25 for both weeks, and that the individual is subject to a withholding order of \$100 for child support for the first week.

For the first week, the Department will first recoup the entire amount of \$32.25 due for that first week. \$129 minus \$32.25 equals \$96.75. Because the individual does not have sufficient benefits to cover the full amount of child support due for that first week, the Department will deduct \$96.75, the amount of benefits available for that week. The individual's payment for the two week period will not include any benefits with respect to

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retroactively revoke his election with respect to January 20 through February 1. Elections and revocations can only operate prospectively.

(Source: Added at 20 Ill. Reg. _____, effective _____)

that first week.
For the second week of the payment period, the individual is not subject to a withholding order for child support. Accordingly, the individual is eligible to receive \$96.75 for the second week, the difference between the benefits payable to him for that week (\$129) and the amount recouped (\$32.25). Because the individual has elected federal income tax withholding for the period covered by the payment, the Department will deduct \$39 for federal income tax withholding from the individual's benefits and pay the individual the remaining \$57.75.

Example: Assume the same situation described in subsection (b)(3), except that the individual's withholding for court ordered child support is \$90 for each week. The amount of benefits subject to federal income tax withholding for the two week period remains \$258. 15% of \$258 equals \$38.70, which, rounded to the nearest dollar, is \$39.
The individual has sufficient benefits for the Department to recoup the maximum amount and to deduct for child support in full for both weeks. If the individual had not elected to withhold federal income tax, the individual would have received a check for \$13.50, the sum of \$6.75 and \$6.75 for that two week period. Because the individual has elected federal income tax withholding for this period and the benefits for the period after recoupment and child support are less than 15% of the amount subject to withholding, the Department will deduct the entire \$13.50 for federal income tax withholding and not pay the individual any benefits for this period.

c) An individual's election and his revocation of his election to have monies withheld from his benefits for possible federal income tax liability shall be prospective only. Any decision made by the Department as to whether an individual has, under the Act, elected withholding or revoked a withholding election shall constitute a final administrative decision, subject to review under the Administrative Review Law '735 ILCS 5 Art. III.

EXAMPLE: Upon filing an additional claim during his benefit year, an individual elects to have federal income tax withheld from his unemployment benefits. His first benefit check covers the two-week period beginning January 20, 1997, and ending February 1, 1997. His WBA is \$250, and the amount subject to withholding for the period is \$75 (15% of \$500). For each week, he is subject to recoupment of 25% of his WBA and a withholding order of \$100 for child support. Consequently, his benefit check for the two-week period is for \$100.00. When he receives his benefit check, he asks to revoke the election, explaining he thought the income tax withholding would be based on a percentage of his WBA after recoupment and child support. While the Department, if he desires, will revoke his election to withhold with respect to a period that has not yet ended, it will not

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1) Heading of the Part: The Illinois Oil and Gas Act2) Code Citation: 62 Ill. Adm. Code 2403) Section Number: Proposed Action:

240.10	Amend
240.131	Amend
240.132	Amend
240.133	Amend
240.160	Amend
240.180	Amend
240.190	Amend
240.210	Amend
240.230	Amend
240.250	Amend
240.251	New
250.255	Amend
240.380	Amend
240.385	New
240.420	Amend
240.455	Amend
240.460	Amend
240.465	Amend
240.470	Amend
240.530	Amend
240.540	Amend
420.550	Amend
240.605	New
240.610	Amend
240.630	Amend
204.640	Amend
240.710	Amend
240.760	Amend
240.780	Amend
240.860	Amend
240.861	Amend
240.862	New
240.890	Amend
240.891	Amend
240.895	Amend
240.900	New
240.906	Amend
240.926	New
240.1110	Amend
240.1130	Amend
240.1131	New
240.1410	Amend
240.1450	Amend

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240.1460	Amend
240.1470	Amend
240.1480	Amend
240.1500	Amend
240.1600	Amend
240.1610	Amend
240.1620	Amend
240.1630	Amend
240.1635	New
240.1640	Amend
240.1710	Amend
240.1820	Amend
240.1852	New
240.1940	Amend

4) Statutory Authority: Implemented and authorized by Section 6 of the Illinois Oil and Gas Act [225 ILCS 725/6].

5) A complete description of the subjects and issues involved: Section 240.10 is being amended to achieve six objectives. First, the definition of "Department" has been added to reflect the merger of the Department of Mines and Minerals into the newly established Department of Natural Resources. Secondly, a definition of "Division" is being added to reflect the location of the Division of Oil and Gas within the Office of Mines and Minerals in the newly established Department of Natural Resources. Next, the definition of "General Oilfield Waste" is being amended to include the unused portion of chemicals in the chemical container and to clarify that these types of wastes are regulated under the federal Resource Conservation and Recovery Act, and to remove wastes not under the jurisdiction of the Act. Fourth, the definition of "Owner" is being amended to more accurately reflect the intent of the Illinois Oil and Gas Act and to clarify that an operating agreement between the owners and the oil operator will meet the definition of owner as intended by the Act. Fifth, the definition of "Permit" is being amended to ensure conformity with the Illinois Oil and Gas Act. Sixth, the definition of "Permittee" is being revised to reflect consistency with the Illinois Oil and Gas Act.

Section 240.131 is being amended to achieve three objectives. First, a provision has been added to reflect recent amendments to the Illinois Oil and Gas Act that requires control of only 51% of the working interest underlying the unit area in order for the operator to petition the Department to establish a secondary recovery unit. Secondly, a generic office location has been identified to accommodate the possibility that the Division of Oil and Gas, Office of Mines and Minerals may move relative to the creation of the Department of Natural Resources. Third, a new subsection has been added to establish the time by which the Department is required to return a deficient petition that requests

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formation of a unit.

Section 240.132 is being amended to achieve two objectives. First, a generic office location is identified to address the possibility that the Division of Oil and Gas, Office of Mines and Minerals could move relative to the creation of the Department of Natural Resources. Next, a new subsection has been added to clarify the time within which the Department must return a deficient petition that requests formation of a unit.

Section 240.133 is being amended to achieve two objectives. First a generic office location is designated for the Division of Oil and Gas, Office of Mines and Minerals. Second, a new subsection is added to clearly establish the period in which the Department is required to return a deficient petition requesting formation of a unit.

Section 240.160 is being amended to incorporate enforcement provisions of the Illinois Oil and Gas Act.

Section 240.180 is being amended to accomplish three objectives. First the requirement that interest be paid on civil penalties held in escrow pending the outcome of a requested hearing is deleted. Next, the requirement that funds be paid into an escrow account is removed. Lastly, the location of the Office is amended to reflect the potential for relocation as a result of the merger into the new Department of Natural Resources.

Section 240.190 is being amended to achieve two objectives. First, current statutory citations are inserted. Second, a generic office location is designated to accommodate any possible relocation due to the merger of the Department of Mines and Minerals into the new Department of Natural Resources.

Section 240.210 is being amended to reflect the correct citation in Department Rules where the requirements for bonding are contained and to insert the current statutory citation dealing with the permitting of pre-law wells.

Section 240.230 is being amended to require individuals, partnerships or other unincorporated entities that are not residents to submit to the jurisdiction of the courts of this State by irrevocably consenting to be sued in Illinois.

Section 240.250 is being amended to accomplish three objectives. First, language pertaining to reasons for the denial of drilling permits has been revised to closely track with current statutory provisions contained within the Illinois Oil and Gas Act. Second, Section 240.250(e), concerning requirements for engaging in off-site drilling due to lost wells, is deleted from this Section and moved to Section 240.420(d) to

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ensure subject compatibility. Third, provisions related to permit revocations and objections thereto are removed from this Section and inserted into Section 240.251.

Section 240.251 is newly added to achieve three objectives. First, provisions that clearly establish reasons for permit revocation, including applicable recently adopted statutory language, are inserted. Next, the Department is required to provide thirty days notice prior to revoking a permit, and a thirty day period is granted to permittees to request a hearing to contest the revocation. Third, procedural guidelines for holding pre-hearing conferences and formal hearing proceedings are established.

Section 240.255 is newly added to clarify that conversion of production wells to water wells that are required to be permitted by the Illinois Department of Public Health is prohibited.

Section 240.380 is being amended to accomplish three objectives. First, applicable statutory language related to the denial of drilling permits has been incorporated. Secondly, a new provision has been added to clearly state that applicants on whose behalf unpaid funds have been obligated from the Plugging and Restoration Fund for well plugging activities are ineligible for the issuance of drilling permits if the applicant was a previous permittee or an owner of more than 5% interest in a previous permittee on whose behalf such unpaid funds were expended. Third, delinquency in payment of annual well fees is added as cause for the denial of a drilling permit.

Section 240.385 is being added to clarify current provisions of the Illinois Oil and Gas Act which prohibits Class II wells from being converted to water wells unless a permit is obtained from the Illinois Department of Public Health, which has jurisdiction over the permitting of water wells.

Section 240.420 is being amended to add a new subsection (d), as the location of rules moved from Section 240.250(e) pertaining to permissible off location drilling in the event of lost wells.

Section 240.455 is being amended to accomplish three objectives. First, a definition of a horizontal well has been added. Second, permissive language has been added to allow a well with multiple drainholes to be considered a single well. Third, the word "horizontal" has been inserted to clarify the type of well being discussed in this Section.

Section 240.460 is being amended to accomplish four objectives. First, the requirement that a petition for creation of a modified drilling be based on geologic or engineering characteristics of the reservoir is clearly stated. Next a new subsection has been added to clarify the

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requisite contents of a petition to establish a modified drilling unit. Third, this Section is amended to reflect generic office locations in the event of future office moves result due to the establishment of the new Department of Natural Resources. Fourth, a time frame is established for the Department to return deficient petitions that request completion of a modified drilling unit.

Section 240.465 is being amended to achieve four objectives. First it is clarified that upon proper application the Department must schedule a hearing to determine the creation of a special drilling unit. Second, the parameters which govern establishment of a special drilling unit relative to other Department well spacing regulations are clearly defined. Third, a new subsection has been added to identify the required contents of the petition submitted to the Department requesting the creation of a special drilling unit. Fourth, this Section is amended to specify that petitions requesting the creation of a special drilling unit will be handled in accordance with standard hearing provisions contained in other Sections of the Oil and Gas Rules.

Section 240.470 is being amended to add a new subsection (c)(12) to reflect the creation of pool-wide drilling units for an oil pool in Washington County as a result of a recent hearing and Order issued by the Department.

Section 240.530 is being amended to achieve two objectives. First, the storage and storage handling provisions for completion fluids are clarified by deeming that only pits used to store completion fluids temporarily at well sites prior to their use in completion activities are required to be lined. Secondly, a provision is inserted to state that a pit used for temporary storage of completion fluids need not be lined.

Section 240.540 is being amended to clarify the requirement that an additional liner be placed over a folded liner to ensure protection against the infiltration of surface and ground water.

Section 240.550 is being amended to broaden the applicability of the Section to include wastes other than general oilfield wastes and to reflect that the disposal of general oilfield wastes is governed by the Federal Resource Conservation and Recovery Act of 1976.

Section 240.605 is being added to require timely notification to the Department when a previously plugged well is re-drilled.

Section 240.610 is being amended to clearly state that the use of alternative surface casing by an oil operator requires notification to the Department before the alternative method is used.

Section 240.630 is being amended to indicate a proper administrative rule

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citation.

Section 240.640 is being amended to achieve three objectives. First, the types of well activities that require the submission of a completion report are clearly identified. Next, a thirty day period from the expiration of a conversion permit is established for filing Well Completion Reports for unconverted wells. Third, subsection (c) is being amended to clarify the type of logs required to be submitted to the State Geological Survey in accordance with the current provisions of the Illinois Oil and Gas Act.

Section 240.710 is being amended to require oil operators that use alternative surface casing provide prior notification to the Department before using the alternative method.

Section 240.760 is being amended to allow alternative construction methods in the operation of Class II wells in the event these methods are approved by the U. S. Environmental Protection Agency.

Section 240.780 is being amended to accomplish two objectives. First, the types of logs required to be submitted to the State Geological Survey are specified. Second, it is made clear that, in accordance with applicable statutory guidelines, only additional drilling requires the submission of a log on an existing well.

Section 240.860 is being amended to achieve four objectives. First, the definition of a pit is clarified. Second, pit closure requirements are being modified to acknowledge previously adopted pit closure exemptions contained in Section 240.861 and proposed exemptions detailed in new Section 240.862. Third, provisions related to synthetically lined pits are deleted. Fourth, time frames previously established for the closure of pits are further delineated.

Section 240.861 is being amended to achieve two objectives. First, the title is changed to clearly identify the nature of the subject pit exemption. Secondly, specific remedial procedures are established for addressing pit liner leaks.

Section 240.862 is being added to accomplish three objectives. First, it provides a procedural mechanism for exempting from closure existing "old" production fluid storage pits by setting forth applicable criterion for exemption from closure, including non-use of the pit, meeting minimal acceptable water quality standards, and the submittal from the surface owner of a notarized statement that requests that the pit remain open and demonstrates an acceptable alternate use. Second, it establishes factors the Department must consider when determining whether to grant an exemption to a pit's required closing, including the pit's location relative to ongoing production activities, the proposed alternative use

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relative to public health considerations, and the pit's potential use for agricultural purposes or wildlife habitat. Third, a requirement is imposed that a pit be closed within six months following the Department's denial of a closure exemption.

Section 240.890 is being amended to accomplish two objectives. First, subsection (d) is newly added to clearly indicate applicable rules governing the remediation or removal of soil contaminated as a result of crude oil spills. Next, the circumstances and parameters under which the Department shall order additional crude oil spill cleanup actions are clarified; and consideration factors including the aerial extent of the spill, proximity of water sources, soil type, current land use and TPH content in the spill area, are expressly set forth.

Section 240.891 is being amended to achieve two objectives. First the Section title and subsection (a) are changed to indicate the inclusion of remediation in the Section. Second, subsections (c)(2)(B) and (C) are changed to clarify the area in which land spreading crude oil spill waste can take place and to clearly prohibit landspreading of oilfield waste on areas not contaminated by the initial spill event.

Section 240.895 is being amended to accomplish two objectives. First, soil removal is expressly included as a possible additional remedial cleanup action. Second, various nonsubstantive grammatical changes pertaining to soil and waters are made.

Section 240.900 is newly added to ensure standardized definitions exist for the terms "Liquid Oilfield Waste Transportation System", "System Facility" and "Vehicle" (adopts the definition previously contained in Section 240.906).

Section 240.906 is being amended to delete the definition for "Vehicle" (see comment to Section 240.900 above).

Section 240.926 is being added to achieve six objectives in adopting requirements for permit issuance and establishing operating requirements for Liquid Oilfield Waste Transportation Systems in accordance with provisions of the Illinois Oil and Gas Act. First, a requirement is mandated that all vehicles hauling Liquid Oilfield Wastes and associated piping and valves be kept in leak free condition; and statutory criminal sanctions (including fines and incarceration) for any unauthorized gathering, transportation or disposal of such wastes are expressly adopted. Second, permissible disposal and storage methods are established, and the release of Liquid Oilfield Wastes onto the ground surface or into freshwater or water drainage-ways is prohibited. Next, commingling liquid oilfield wastes with non-exempt wastes is clearly prohibited. Fourth, operators and other persons that need to have liquid oilfield wastes hauled are required to employ only permitted haulers to

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transport such substances. Fifth, standards for revocation of Liquid Oilfield Waste Transportation and Vehicle permits are clearly established, including the express adoption of pertinent statutory provisions. Finally, bond forfeiture provisions are added.

Section 240.1110 is amended to achieve two objectives. First, the definition of "Cement" is amended to incorporate the actual cement standard used in the field. Next, the definition of "Producing Lease or Unit" is being added to clarify that such terms entail property upon which the active production and sale of oil has occurred within a prior twelve month period.

Section 240.1130 is being amended to accomplish five objectives. First, the term "temporary abandonment" is deleted throughout and changed to "Future Use" to reflect clarity in the purpose of retaining a well for use in secondary recovery operations. Secondly, applicable time frames for initial and subsequent designations of Future Use status are clearly delineated, and plugging or conversion requirements for Class II UIC wells whose Future Use status has expired are established. Third, provisions prohibiting the reactivation of temporarily abandoned wells are deleted. Fourth, requirements for terminating Future Use status are detailed. Fifth, criteria for reactivation of injection and disposal wells are clearly stated.

Section 240.1131 is being newly added to accomplish four objectives. First, a provision is added that permits an automatic annual extension of Future Use status beyond the initial five year limit outlined in Section 240.1130 for wells that meet established equipment and water level standards and that are located on a producing lease or unit. Second, a mechanism is provided for granting extended Future Use status to wells located in non-producing units or on non-producing leases. Third, a requirement is inserted that wells not approved for Future Use status be plugged within 6 months from the date of such denial, unless a hearing on the issue is requested. Fourth, a comprehensive hearing procedure for oil operators to challenge Future Use extension denials is provided, with defined deadlines for submittal of hearing requests, scheduling pre-hearing conferences, and the issuance of final decisions.

Section 240.1410 is being amended to clarify that a Trustee or Receiver is required to be a Permittee of a well when the appointment to such office by a court includes the concurrent right to drill and/or produce the well, along with the right and responsibilities for operating the well.

Section 240.1450 is being amended to correct a clerical oversight by inserting the word "documentation" to denote the type of evidence to be submitted in support of an ownership transfer.

Section 240.1460 is being amended to achieve seven objectives. First,

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restrictions on permit transfer have been broadened by the insertion of pertinent statutory language identifying ineligible permittees. Secondly, a new provision has been added to clearly state that applicants on whose behalf unrepaid funds have been obligated from the Plugging and Restoration Fund for well plugging activities are ineligible for the issuance of drilling permits if the proposed new permittee was a previous permittee or an owner of more than 5% interest in a previous permittee on whose behalf such unrepaid funds were expended. Third, delinquency in payment of annual well fees as cause for the denial of a permit transfer is expanded by the addition of language that makes officers, directors, partners or other persons with more than 5% interest in another permittee that is delinquent in payment of annual well fees ineligible to become permittees via transfer. Fourth, non-substantive grammatical changes are made relative to the assumption of responsibility for regulatory requirements by new base lessees and to clarify the Department's duty to notify a new permittee of outstanding violations and mandatory abatement periods. Fifth, a provision is added to clarify that a new permittee via a new base lease is responsible for compliance with all regulatory requirements that pertain to all wells producing from the formation into which injection is to occur. Sixth, subsection (b)(3) is being amended to include a Trustee or Receiver as a new permittee in the event a court transfers the right to drill and produce to these parties. Seventh, a provision is added that absolves the current permittee of liability for violations caused by actions of the new permittee during the permit transfer process after notice of the transfer is given to the Department.

Section 240.1470 is being added to clarify the basis for permit revocation relative to the permit transfer process and to ensure compliance with permit revocation provisions of the Illinois Oil and Gas Act. Revocation is mandatory if a transfer was erroneously issued; false or misstated information was provided by the applicant; outstanding violations of the Act are unabated; an officer, director, partner, or person with more than a 5% interest in either the applicant or another permitted entity fails to abate a violation of the Act as specified in a final administrative decision of the Department; and a 30 day notification requirement is imposed upon the Department to inform the permittee of its intent to revoke a permit transfer.

Section 240.1480 is being amended to accomplish five objectives. First, the documentation upon which a determination is relied to support a decision that an administrative transfer is proper is expressly allowed to be collected by, rather than only submitted to, the Department. Second, conjunctive conditions are added that the sale or other transfer transaction occurred before September 26, 1991 or, the failure to transfer was due to a clerical oversight by the Department. Third, it is clarified that the permittee is to pay the requisite transfer fee for administrative transfers effected after September 26, 1991. Fourth, administrative transfers are expressly excluded from the permit transfer restrictions

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imposed by Section 240.1460(a). Fifth, a clause is inserted to clarify that bonding is not automatically required to operate wells transferred under this Section.

Section 240.1500 is being amended to accomplish five objectives. First, it is clarified that applicants who did not own the right to drill and produce the well(s) listed in the transfer request on September 26, 1991 are required to be bonded. Next, a provision has been added that requires applicants who have unappealed abandoned well orders for non-payment of annual well fees secure appropriate bonding. Third, a new provision is inserted to require that permittees, on whose behalf PRF funds have been expended, be bonded. Fourth, subsection (a)(1)(F) is being added to release a court appointed Trustee or Receiver from the bond requirements of the Act given that these parties are subject to court bonding requirements. Fifth, the term "hole" has been deleted and replaced with the word "permit" to reflect compliance with the Illinois Oil and Gas Act's requirement that each permit be subjected to the required bond as opposed to each individual well on the permit.

Section 240.1600 is being amended to achieve five objectives. First, the definition of "Emergency Project" is being broadened to include the clean-up of oil spills and leaking production facilities using funds from the Federal Oil Pollution Act. Second, the definition of "Emergency Remedial Work" is being clarified to ensure that only leaks of crude oil that result from a leaking well may be corrected utilizing funds from the Plugging and Restoration Program. Third, the definition of "Emergency Well Plugging" has been expanded to include non-leaking wells that present an imminent danger to public safety. Fourth, a definition of "Person" is newly added to clearly identify the individuals who can be authorized by the Department to plug abandoned or leaking wells under the provisions of the Plugging and Restoration Program. Fifth, a definition of "Well Site" is being added to provide a clarification of locations eligible for remediation using funds from the Plugging and Restoration Program.

Section 240.1610 is being amended to achieve three objectives. First, the Department's purpose of seeking an order to plug or repair leaking or abandoned wells for which hearings have been scheduled pursuant to Section 19.1 of the Act is clarified. Next, a provision is added to clarify that well plugging includes restoration of the associated well site. In addition, the Section is being amended to mandate that only funds paid from the Annual Well Fee portion of the Plugging and Restoration Program may be used for plugging activities initiated under this Section.

Section 240.1620 is being amended to accomplish three objectives. First, the requirement that a well not be located on a valid lease is deleted as a factor for determining orphan status. Second, grammatical changes are made to clearly indicate the Department's options in addressing orphan well situations. Third, a provision is inserted to require that remedial

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work performed under this Section can only be paid out of the bond forfeiture monies portion of the Plugging and Restoration Program Fund.

Section 240.1630 is being amended to achieve five objectives. First the title is changed to indicate the scope of subjects addressed by adding "Plugging and Emergency" as part of the emergency work being completed involving the plugging of wells and emergency repair of leaks. Second, language is inserted to clarify that cessation orders can be issued when an imminent danger to public health or the environment is caused as a result of a leaking well. Third, the restriction that a cessation order may only be issued when a responsible party cannot be readily located is deleted. Fourth, language expands the Department's ability to take any action necessary, including plugging the well, to cause a cessation of danger to the public or environment as a result of practices resulting in leaking fluids from an oil and gas well. Fifth, it is specified that funds for this type of work shall come from the Annual Well Fee portion of the Plugging and Restoration Program Fund.

Section 240.1635 is being added to achieve two objectives. First, it identifies the Federal Oil Pollution Act of 1990 (OPA) as a funding source for remediating actual or imminent crude oil spills that threaten surface waters. Second, it specifies an additional category for the expenditure of funds from the Plugging and Restoration Program for remedial work engagements pursuant to this Section.

Section 240.1640 is being amended to exclude reimbursement for OPA monies as these are federal funds which do not require repayment to the State's Plugging and Restoration Program fund by the oil operator. Cost recovery for such funds will be initiated by the USEPA.

Section 240.1710 is being amended to add a new subsection that clarifies the requisite authority and position of persons signing the annual reporting form. These requirements are consistent with similar provisions throughout the oil and gas rules.

Section 240.1820 is being amended to clarify the type of agreement acceptable to the Department to meet the specified requirement that an operator submit an agreement with the gas storage operator when the oil operator will be drilling a well through the gas storage zones.

Section 240.1852 is newly added to establish minimum construction, operating and reporting requirements for gas storage and observation wells. These types of wells must comply with the same requirements applicable to all other wells under the jurisdiction of the Department.

Section 240.1940 is being amended to prohibit the conversion of service wells for use as either production or injection wells, as they are not constructed for such other purposes.

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6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact upon local units of government

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Alfred L. Clayborne, Legal Counsel
Illinois Department of Natural Resources
524 South Second Street
Springfield, IL 62701
(217) 782-1809

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 5:00 p.m. on December 9, 1996. Comments received thereafter will not be considered in this rulemaking.

The Department will hold a public hearing on the proposed rulemaking on November 12, 1996, at the Ramada Hotel, 222 Potomac Boulevard, Mt. Vernon, Illinois in the Derrick Room at 10:00 a.m.. Representatives of small businesses are encouraged to comment above the impact of the proposed rulemaking at this public hearing.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments will allow small oil and gas permittees to conduct their operations in a more cost-effective manner. The proposed amendments will have no impact on small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: None

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 240

THE ILLINOIS OIL AND GAS
ACT

SUBPART A: GENERAL PROVISIONS

Section	
240.10	Definitions
240.10	Prevention of Waste (Repealed)
240.20	Jurisdiction (Repealed)
240.30	Enforcement of Act (Repealed)
240.40	Delegation of Authority (Repealed)
240.50	Right of Inspection (Repealed)
240.60	Right of Access (Repealed)
240.70	Sworn Statements (Repealed)
240.80	Additional Reports (Repealed)
240.90	When Rules Become Effective (Repealed)
240.100	Notice of Rules (Repealed)
240.110	Forms (Repealed)
240.120	Hearings--Notices (Repealed)
240.130	Unitization Hearings
240.131	Integration Hearings
240.132	Hearings to Establish Pool-Wide Drilling Units
240.133	Violations Not Requiring Formal Action
240.140	Notice of Violation
240.150	Director's Decision
240.160	Cessation Order
240.170	Enforcement Hearings
240.180	Temporary Relief
240.190	Subpoenas
240.195	

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section	
240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
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AUTHORITY: Implementing and authorized by Sections 6 and 8a of the Illinois Oil and Gas Act [225 ILCS 725/6 and 8a].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg.

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2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 240.10 Definitions

"Act"--means the Illinois Oil and Gas Act [225 ILCS 725].

"Annular or casing injection/disposal well"--means a well into which fluids are injected between the surface casing and the well bore, the surface casing and the production casing, and/or the production casing and the tubing, or a well into which fluids are injected which does not have production casing, tubing and packer.

"Cement"--means all petroleum industry cements meeting the requirements set forth in "Specifications for Oil Well Cements and Cement Additives", API Standard 10A, January, 1974, published by the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005 (this incorporation does not include any later publications or editions), except as provided in Subpart K of these rules.

"Class II fluids" means:

Produced water and/or other fluids brought to the surface in connection with drilling, completion, workover and plugging of oil and natural gas wells; enhanced recovery operations; or natural gas storage operations;

Produced water and/or other fluids from above, which prior to re-injection have been:

used on site for purposes integrally associated to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

chemically treated or altered to the extent necessary to make them usable for purposes integrally related to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations, or natural gas storage operations;

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commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act;—

Fresh water from groundwater or surface water sources which is used for purposes integrally related or associated with oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) which are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash) which are an integral part of natural gas storage operations, unless the gas plant or gas dehydration plant wastes are classified as hazardous under the federal Resource Conservation and Recovery Act.

"Class II UIC well"--means an Injection, Disposal or Commercial Disposal well into which fluids are injected:

Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with wastewaters from gas plants which are an integral part of production operations unless those waters are classified as a hazardous waste at the time of injection;

For enhanced recovery of oil or natural gas; and

For storage of hydrocarbons which are liquid at standard temperature and pressure.

"Commercial Disposal Well"--means a permitted Class II well for which the permittee receives deliveries of Class II fluids by tank truck and charges a fee for the specific purpose of disposal of Class II fluids.

"Convert"--means to change an oil, gas, Class II UIC, water supply, observation or gas storage well to another of those types of wells, requiring the issuance of a new permit.

"Department"--means the Department of Natural Resources, Office of Mines and Minerals of the State of Illinois. [225 ILCS 725]

"Directional Drilling"--means the controlled directional drilling when the bottom of the well bore is directed away from the vertical

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position.

"Director"--means the Director of the Office of Mines and Minerals, as the designee of the Director, Illinois Department of Natural Resources.

"Disposal Well"--means a Class II UIC well into which fluids brought to the surface in connection with oil or natural gas production are injected into a non-productive oil or gas zone for purposes other than enhanced oil recovery.

"District Office"--means the Department's office for the district in which the well is located.

"Division"--means the Division of Oil and Gas within the Department of Natural Resources, Office of Mines and Minerals.

"Enhanced Oil Recovery"--means any secondary or tertiary recovery method used in an effort to recover hydrocarbons from a pool by injection of fluids, gases or other substances to maintain, restore or augment natural reservoir energy, or by introducing gases, chemicals, other substances or heat or by in-site combustion, or by any combination thereof. [225 ILCS 725]

"Enhanced Oil Recovery Injection Well"--means a Class II UIC well used for enhanced oil recovery.

"Flowline"--means all injection, produced water and oil flow lines located within the boundaries of a lease or unit, or gathering lines between leases to a centralized storage area, or to the point where the lines connect with a primary transportation pipeline.

"Fresh Water"--means surface and subsurface water in its natural state useful for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal and recreational purposes, and which will support aquatic life and contains less than 10,000 mg/liter total dissolved solids.

"General Oilfield Waste"--means ~~paper~~ ~~trash~~, oily rags, chemical containers including any unused chemicals, oil filters and gaskets, used motor oil, lubricating oils, hydraulic fluids, diesel fuels, paint and solvent wastes and other similar wastes generated during drilling, completion, production and plugging activities and which are now or hereafter non-exempt from the provisions of Subtitle C of the Federal Resource Conservation Recovery Act of 1976.

"Injection Well"--means a Class II well into which fluids brought to the surface in connection with oil or natural gas production are

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injected into a producing oil or gas zone for purposes of enhanced oil recovery.

"Liquid Oilfield Waste"--means oilfield brines, produced waters, Class II fluids, tank and pit crude oil bottom sediments, and drilling and completion fluids, to the extent those wastes are now or hereafter exempt from the provisions of Subtitle C of the Federal Resource Conservation Recovery Act of 1976. [225 ILCS 725/8c]

"Liquid Oilfield Waste Hauler"--means a person holding a permit to operate a liquid oilfield waste transportation system.

"Orphan Well"--means a well for which:

(1) No fee assessment under Section 19.7 of the Act has been paid or no other bond coverage has been provided for 2 consecutive years;

(2) no oil or gas has been produced from the well or from the lease or unit on which the well is located for 2 consecutive years; and

(3) no permittee or owner can be identified or located by the Department. Orphaned wells include wells that may have been drilled for purposes other than those for which a permit is required under the Act if the well is a conduit for oil or salt water intrusions into fresh water zones or onto the surface which may be caused by oil and gas operations. [225 ILCS 725]

"Owner"--means the person who has the right to drill into and produce from any pool, and to appropriate the production either for himself or for himself the person or for the person and another, or others, or solely for others, excluding the mineral owner's royalty if the right to drill and produce has been granted under an oil and gas lease. An owner may also be a person granted the right to drill and operate an injection (Class II UIC) well independent of the right to drill for and produce oil or gas. When the right to drill, produce, and appropriate production is held by more than one person, then all persons holding these rights may designate the owner by a written operating agreement or similar written agreement. In the absence of such an agreement, and subject to the provisions of Sections 22.2 and 23.1 through 23.16 of the Act, the owner shall be the person designated in writing by a majority in interest of the persons holding these rights. [225 ILCS 725]

"Permit"--means the Department's written authorization allowing a well or test hole to be drilled, deepened, converted and/or operated by an

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owner. [225 ILCS 725]

"Permittee"--means the person owner holding or required to hold the permit, and who is also responsible for paying assessments in accordance with Section 19.7 of the Act and, where applicable, executing and filing the bond associated with the well as principal and who is responsible for compliance with all statutory and regulatory requirements pertaining to the well. When the right and responsibility for operating a well is vested in a receiver or trustee appointed by a court of competent jurisdiction, the permit shall be issued to the receiver or trustee. When the ownership of the right to drill--for--and--produce--oil--or--gas--consists--of--fractional--undivided working--interests--the--permit--shall--be--issued--to--an--owner--designated under--an--operating--or--other--similar--agreement--as--having--the--full rights--and--responsibility--for--operating--the--well---in--the--absence--of such--agreement---the--permit--shall--be--issued--to--an--owner--designated--by the--majority--in--interest--of--the--owners--of--the--well. [225 ILCS 725]

"Person"--means any natural person, corporation, association, partnership, governmental agency or other legal entity, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind. [225 ILCS 725]

"Pool"--means a natural underground reservoir containing, in whole or in part, a natural accumulation of oil or gas, or both. Each productive zone or stratum of a general structure, which is completely separated from any other zone or stratum in the structure, is deemed a separate "pool" as used herein. [225 ILCS 725]

"Produced Water"--means water regardless of chloride and total dissolved solids (TDS) content which is produced in conjunction with oil and/or natural gas production and natural gas storage operations.

"Production Casing"--means the string of casing placed in a well and used for the purpose of isolating the production or injection formation.

"Repressure"--means to increase the reservoir pressure by the introduction of gas, air or water or other fluid into the reservoir.

"Reservoir"--for the purpose of these rules, is interchangeable with the term "pool".

"Rotary Drilling"--means the hydraulic process of drilling a well for oil or gas as such method is commonly used in the industry.

"Shooting"--means the exploding of nitroglycerin or other high explosives in a well for the purpose of increasing the production of

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oil or gas.

"Surface Waters"--means any river, stream, lake, pond or intermittent stream.

"Tank"--means a vessel into which oil or water is gathered, produced or stored.

"The Act"--means the provisions of the Illinois Oil and Gas Act [225 ILCS 725].

"Undeveloped Limits of a Mine"--means that portion of a mine where the entries have not been driven to the boundaries of the mine property.

"Vacuum"--means pressure which is reduced below the pressure of the atmosphere.

"Water Drainage Way"--means any drainage ditch, roadside ditch, grassy waterway or any other natural or manmade surface or underground water drainage system.

"Well"--means any drill hole required to be permitted under subsection (2) of Section 6 or Section 12 of the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.131 Unitization Hearings

a) Commencement of Action

Where separately owned tracts of land are underlain by all or a portion of a common pool of oil or gas or both, an interested person may petition the Department for an order unitizing those tracts, that is to combine those tracts within a unified operation, pursuant to Section 23.3 23-2 et seq. of the Act. The petition for a unitization order shall contain the following:

- 1) A legal description of the land and geologic description of the reservoirs within the proposed unit area;
- 2) The names of all persons owning or having an interest in the oil and gas rights in the proposed unit area as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the unit area is situated, and their addresses, if known. If the address of any person or the name of any owner is unknown, the petition shall so indicate and shall state whether due diligence was used in locating such unknown address or unknown owner;
- 3) A statement of the type of operations contemplated for the unit area;

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- 4) A copy of a proposed plan of unitization signed by persons owning not less than 51% 60% of the working interest underlying the surface within the area proposed to be unitized, which the petitioner considers fair, reasonable and equitable; said plan of unitization shall include (or provide in a separate unit operating agreement, if there be more than one working interest owner, a copy of which shall accompany the petition) the following:

- A) A plan for allocating to each separately owned tract in the unit area its share of the oil and gas produced from the unit area and not required or consumed in the conduct of the operation of the unit area or unavoidably lost; the plan shall include the participation factors for each tract and a detailed description of the methodology and supporting data used to calculate the participation factors.
- B) A provision indicating how unit expense shall be determined and charged to the several owners, including a provision for carrying or otherwise financing any working interest owner who has not executed the proposed plan of unitization and who elects to be carried or otherwise financed, and allowing the unit operator, for the benefit of those working interest owners who have paid the development and operating costs, the recovery of not more than 150% of such person's actual share of development costs of the unit plus operating costs, with interest. Recovery of the money advanced to owners wishing to be financed, for development and operating costs of the unit, together with such other sums provided for herein, shall only be recoverable from such owner's share of unit production from the unit area.
- C) A procedure and basis upon which wells, equipment, and other properties of the several working interest owners within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor.
- D) A plan for maintaining effective supervision and conduct of unit operations, in respect to which each working interest owner shall have a vote with a value corresponding to the percentage of unit expense chargeable against the interest of such owner. (Ill-Rev-Stat--1991r-ch-96-1/27-par-5440) [225 ILCS 725/23.3]
- E) A summary of the total cumulative production to date, the estimated additional total recoverable reserves from the proposed unit, and the estimated total development cost and operating cost of the unit;
- 5) The name and addresses of the proposed operator or operators of the unit;
- 6) A map showing the tracts or group of leases included within the proposed unit area, the location of the proposed injection well

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or wells and the name, permit number, and location of all oil and gas wells, including abandoned wells, active wells and dry holes and the reservoirs in which all such wells are currently completed, and the names of all operators offsetting the proposed unit area and the name, description and depth of the producing zones in those areas;

- 7) A map showing the structure of the geologic horizon that best represents the structure of the proposed reservoirs to be unitized;
- 8) A listing of the reservoirs to be unitized and a map showing the productive portion, thickness, and extent of each such reservoir;
- 9) An induction or electric log of a representative well completed in the proposed unitized reservoirs;
- 10) A description of the injection medium to be used, its source and the estimated amounts to be injected daily;
- 11) A description of the proposed plan of development of the area included within the unit;
- 12) An allegation of the facts required to be found by the Department under Section 23.5 of the Act. The required facts are as follows:
- A) That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate recovery of oil and gas, to prevent waste, and to protect correlative rights;
- B) That the value of the estimated ultimate additional recovery of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;
- C) That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such well have no substantially adverse effect upon the remainder of the pool or pools, or parts thereof;
- D) That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;
- E) That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners; and
- F) That the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable (Ill-Rev-Stat--1991r-ch-96-1/27-par-5442) [225 ILCS 725/23.5].
- b) Execution and Filing
- 1) The petition for an order creating a unit pursuant to Section 23.3 et seq. of the Act shall be filed with the Illinois Department Office located in ~~of Mines and Mineral~~ ~~Division~~ ~~300 West Jefferson~~ ~~Suite 300~~ ~~P.O. Box 101407~~ Springfield, Illinois 62791-0140. The petition shall be deemed

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- filed when it is received by the Department, Department's Division of Oil and Gas Division.
- 2) Every petition shall be signed by the petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the best of his knowledge, information and belief there is good ground to support the same.
- 3) If, after the petition is filed, and prior to setting a hearing date, the Department finds the petition deficient relative to the requirements of subsection (a) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

c) Notice of Hearing

- 1) *Upon the receipt of a petition for unitization, the Department shall fix the time and place for a public hearing, which shall be no less than 30 days nor more than 60 days after the date of the filing of said petition. The Department shall prepare a notice of hearing, which shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceedings, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands contained within the proposed unit area. ~~§111-Rev-Stat-1991-ch-96-1/27-par-5441~~ [225 ILCS 725/34.4] The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting such entry of appearance in writing to the Department and that thereafter such person shall be deemed a party of record in the proceeding.*
- 2) The Department shall mail such notice to the Petitioner who shall then serve such notice in the following manner:
- A) By mailing such notice by U.S. Postal service certified mail, return receipt requested, directed to the persons named in the petition at their last known addresses at least 20 days prior to the hearing; and
- B) By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing, in a newspaper of general circulation published in each county containing some portion of the proposed unit area. ~~§111-Rev-Stat-1991-ch-95-1/27-par-5441~~ [225 ILCS 725/23.4]
- 3) Whenever the Department shall determine that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect such person's rights or property, the Department shall cause notice to be sent to such person, as provided in this subsection.

d) Pre-Hearing Conferences

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- 1) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:
- A) Simplify the factual and legal issues presented by the hearing request;
- B) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
- C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
- D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
- e) Hearing
- 1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:
- A) To administer oaths and affirmations;
- B) To receive relevant evidence;
- C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- D) To consider and rule upon procedural requests;
- E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and
- F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his own motion or for good cause shown on motion of any party of record.
- 2) Every interested person wishing to participate at the hearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.
- 3) All participants in the hearing shall have the right to be represented by counsel.
- 4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
- 5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the

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opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition.

6) Preliminary Matters: Where applicable, the following shall be addressed prior to receiving evidence:

- A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of service of the notice of hearing, proof of publication and orders previously entered in the cause.
- B) Ruling may be made on any pending motions.
- C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

f) Evidence

- 1) Admissibility: A party shall be entitled to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

- 2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

- 3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

- 4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

- g) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required

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to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.

- h) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

j) Order

- 1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry. The Department shall render a decision within 30 days after the hearing unless all parties that have appeared agree to waive this requirement.

- 2) The order shall grant the petition for unitization if based on the record the Hearing Officer finds all of the following:

- A) That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate recovery of oil and gas, to prevent waste, and to protect correlative rights;
- B) That the value of the estimated ultimate additional recovery of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;
- C) That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such will have no substantially adverse effect upon the

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remainder of the pool or pools, or parts thereof;

D) That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;

E) That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners; and

F) That the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable. ~~††††-Rev--Stat--1991--ch--96--1727~~
~~per--5442†~~ [225 ILCS 725/23.5]

3) If the petition is granted the order shall provide for the authorization of the unit and unitized operation, as proposed by the petitioner, upon such terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners, and for the protection of correlative rights and the prevention of waste. The order shall state the time the unit operation shall become effective and the manner in which and the circumstances under which the unit operation shall terminate.

4) Except as provided in subsection (j)(5) below, the order shall deny and dismiss the petition for unitization if based on the record the Hearing Officer finds that the petitioner has failed to establish the requirements for formation of a unit set forth in subsection (j)(2) above. An order denying and dismissing a petition for unitization shall be entered within ~~thirty--t~~ 30† days after the hearing. Such order shall set forth the reasons for dismissal, and the same shall be promptly filed by the petitioner, if notice was filed under paragraph (2) of Section 23.3 of the Act, in the recorder's office of the county or counties wherein the land is situated. [225 ILCS 725/23.6]

5) As an alternative to denying the petition for unitization, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner in order to avoid dismissal. If the petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine such documents. If the petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of such hearing to all parties of record.

k) Approval of plan of unitization--effective date of order
No order of the Department providing for unit operations shall become effective unless and until the plan of unitization has been approved in writing by those persons who, under the order, will be required to pay at least 51% 75% of the unit expense, and also by the persons owning at least 51% 75% of the unit production or proceeds thereof that will be credited to interests which are free of unit expense,

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including but not limited to, royalties, overriding royalties, carried interests, net profit interests, and production payments, and the Director has made such a finding, either in the order providing for unit operations or in a supplemental order, that the plan of unitization has been so approved; provided, however, that if any person is obligated to pay 51% 75% or more, but less than 100% of the unit expense, the approval of that person and at least one other such person shall be required; and if one person entitled to production or proceeds thereof will be credited to interests which are free of unit expense, owns 51% 75% or more, but less than 100%, the approval of that person and at least one other such person shall be required. If the plan of unitization has not been so approved at the time the order providing for unit operations is issued, the Department shall, upon petition and notice, hold such supplemental hearings as may be required to determine if and when the plan of unitization has been so approved and shall issue a supplemental order evidencing such approval. If the requisite number of persons and the requisite percentage of interests in the unit area do not approve the plan of unitization within a period of 6 months from the date on which the order providing for unit operations is made, such order shall be revoked by the Department unless for good cause shown the Department extends said time for an additional period of time not to exceed one year. ~~††††-Rev--Stat--1991--ch--96--1727--per--5442†~~ [225 ILCS 725/23.8]

1) Notice of Order--Recordation

Within 10 days after an order has been issued, a copy of such order shall be mailed by the Department to each person or his attorney of record who has entered his appearance in the matter pursuant to which such order is issued. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the unit is situated a copy of the order providing for unit operations.

m) Order--Final Administrative Decision

The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.132 Integration Hearings

a) Commencement of Action

Where the oil or gas rights within a drilling unit are separately owned and the owners of those rights have not voluntarily agreed to integrate or pool those rights to develop the oil or gas, an owner may petition the Department for an order integrating those rights, pursuant to Section 22.2 of the Act. The petition for an order integrating interests shall contain the following:

- 1) The name and address of the petitioner;

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- 2) The petitioner's reasons for desiring to integrate the separately owned interests;
- 3) A legal land description of the drilling unit sought to be established;
- 4) A geologic report of the area where the proposed drilling unit is to be located indicating the potential presence of reservoirs;
- 5) A description of the interest owned by the petitioner and each person named in the petition;
- 6) The names of all persons who have not agreed to integrate their interests owning or having an interest in the oil and gas rights in the proposed drilling unit as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the drilling unit is situated, and their addresses, if known. If the address of any person is unknown, the petition shall so indicate;
- 7) A statement that the owners have not agreed to integrate their interests;
- 8) A statement that the petitioner has exercised due diligence to locate each owner and that a bona fide effort was made to reach an agreement with each owner as to how the unit would be developed;
- 9) A statement that no action has been commenced by the owners seeking permission to drill pursuant to the provisions of the Oil and Gas Rights Act (Ill. Rev. Stat. 1991, ch. 96, § 127, par. 4901 et seq.) [765 ILCS 520];
- 10) Any other information relevant to protect correlative rights of the parties sought to be affected by the order.

b) Execution and Filing

- 1) The petition for an order requiring integration pursuant to Section 22.2 of the Act shall be filed with the Illinois Department of Natural Resources, Office of Mines and Minerals, 601 North Dearborn Street, Springfield, Illinois 62791-0140. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas, Department of Mines and Minerals.
- 2) Every petition shall be signed by the Petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the best of his knowledge, information and belief there is good ground to support the same.
- 3) If after the petition is filed, and prior to setting a hearing date, the Department finds the petition deficient relative to the requirements of subsection (a) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

c) Notice of Hearing

- 1) Upon the receipt of a petition for integration, the Department

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- 2) shall fix the time and place for a hearing.
The Department shall prepare a notice of hearing which shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands embraced within the proposed drilling unit. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting such entry of appearance in writing to the Department and that thereafter such person shall be deemed a party of record in the proceeding.
- 3) The Department shall mail such notice to the Petitioner who shall then serve such notice in the following manner:
 - A) By mailing such notice by U.S. Postal service certified mail, return receipt requested, directed to the persons named in the petition at their last known addresses at least 20 days prior to the hearing; and
 - B) By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.
- 4) Whenever the Department shall determine that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect such person's rights or property, the Department shall cause notice to be sent to such person, as provided in this subsection.
 - d) Pre-Hearing Conferences
 - 1) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:
 - A) Simplify the factual and legal issues presented by the hearing request;
 - B) Receive stipulations, admissions of fact and the contents and authenticity of documents;
 - C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
 - D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
 - 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
 - e) Hearing
 - 1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order

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and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

- A) To administer oaths and affirmations;
- B) To receive relevant evidence;
- C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- D) To consider and rule upon procedural requests;
- E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and
- F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his own motion or for good cause shown on motion of any party of record.

2) Every person appearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.

3) All participants in the hearing shall have the right to be represented by counsel.

4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition.

6) Preliminary Matters: Where applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

f) Evidence

1) Admissibility: A party shall be entitled to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the

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courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

g) Record of Proceedings; Testimony

The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.

h) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of any emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default

If a party, after proper services of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the

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absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing be continued or postponed pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.

2) In making the determination of integrating separately owned interests, and determining to whom the permit should be issued, the Department may consider:

- A) The reasons requiring the integration of separate interests;
- B) The respective interests of the parties in the drilling unit sought to be established, and the pool or pools in the field where the proposed drilling unit is located;
- C) Any parties' prior or present compliance with the Act and the Department's rules; and
- D) Any other information relevant to protect the correlative rights of the parties sought to be affected by the integration order.

3) Each order integrating separately owned interests shall authorize the drilling, testing, completing, equipping, and operation of a well on the drilling unit; provide who may drill and operate the well; prescribe the time and manner in which all the owners in the drilling unit may elect to participate therein; and make provision for the payment by all those who elect to participate therein of the reasonable actual cost thereof, plus a reasonable charge for supervision and interest. Should an owner not elect to voluntarily participate in the risk and costs of the drilling, testing, completing and operation of a well as determined by the Department, the integration order shall provide either that:

- A) The nonparticipating owner shall surrender a leasehold interest to the participating owners on a basis and for such terms and consideration the Department finds fair and reasonable; or
- B) The nonparticipating owner shall share in a proportionate part of the production of oil and gas from the drilling unit determined by the Department, and pay a proportionate part of operation cost after the participating owners have recovered from the production of oil or gas from a well all actual costs in the drilling, testing, completing and operation of the well plus a penalty to be determined by the Department of not less than 100% nor more than 300% of such

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actual costs.

4) For the purpose of this Section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a 7/8 interest in and to said rights and a lessor to the extent of the remaining 1/8 interest therein.

5) In the event of any dispute relative to costs and expenses of drilling, testing, equipping, completing and operating a well, the Department shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the integration order of the Department, shall have a lien on the mineral leasehold estate or rights owned by the other owner therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon said unit are a charge against such interest by order of the Department or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the integration order. (Ill.--Rev.--Stat.:1991--ch--96-172--Par--5436) [225 ILCS 725/22.2]

6) As an alternative to denying the petition for integration, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the Petitioner in order to avoid dismissal. If the Petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine such documents. If the Petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of such hearing to all parties of record.

k) Notice of Order--Recordation

Within 10 days after an order has been issued, a copy of such order shall be mailed by the Department to each person or his attorney of record who has entered his appearance in the matter pursuant to which such order is issued and to each working interest owner who has not agreed to an integration. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the drilling unit is situated a copy of the order providing for integration of the separate interests.

l)

Order--Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Illinois Oil and Gas Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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a) Commencement of Action

- 1) Any interested person may petition the Department for a hearing to establish a drilling unit or units for the production of oil and gas or either of them for each pool to which the interested person owns some portion of the oil and gas. (111-Rev-Stat-1993-Ch-96-1/2-Par-5433) (225 ILCS 725/21.1)
- 2) The petition for hearing to establish a drilling unit or units shall contain the following:

- A) The name and address of the petitioner;
 - B) A legal description of the size of the drilling unit sought to be established;
 - C) A legal description of the extent of the reservoir to which the drilling unit or units are sought to be established;
 - D) A list of the names and addresses of all permittees of oil or gas interests in the reservoir as described in subsection (c) above;
 - E) A geologic description of the pool and an isopach and structure map of the reservoir, for which the drilling unit is sought showing the productive limits of the reservoir;
 - F) A plat showing all oil and gas or water injection or storage wells completed within the pool (reservoir);
 - G) Geologic and engineering reports outlining the reasons for and data supporting the proposed size of the drilling unit or units.
- 3) If the establishment of a drilling unit or units would require the integration of separately owned interests in the drilling unit or units, the petitioner may contemporaneously file a petition under Section 240.132 and the matters shall then be consolidated and heard together.

b) Execution and Filing

- 1) The petition to establish drilling units shall be filed with the Illinois Department of Natural Resources, Office of Oil and Gas, Division of Oil and Gas, 300 West Jefferson, Suite 300, P.O. Box 101407, Springfield, Illinois 62791-0140. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas, Department of Oil and Gas, Division.
- 2) Every petition shall be signed by the petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the best of his knowledge, information and belief there is good ground to support the same.
- 3) If after the petition is filed, and prior to setting a hearing date, the Department finds the petition deficient relative to the requirements of subsection (a) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

c) Hearing--Notice

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- 1) Upon the receipt of the petition to establish drilling units, the Department shall fix the time and place for a hearing.
 - 2) The Department shall prepare a notice of hearing which shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the affected lands. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting such entry of appearance in writing to the Department and that thereafter such person shall be deemed a party of record in the proceeding.
 - 3) The Department shall mail such notice to the Petitioner who shall then serve such notice in the following manner:
 - A) By mailing such notice by U.S. Postal Service certified mail with return receipt, directed to the persons named in the petition pursuant to subsection (a)(2)(D) above at their last known addresses at least 20 days prior to the hearing; and
 - B) By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown and for those owners of unleased mineral rights, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.
 - 4) Whenever the Department shall determine that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect such person's rights or property, the Department shall cause notice to be sent to such person, as provided in this subsection (c).
- d) Pre-Hearing Conferences
- 1) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:
 - A) Simplify the factual and legal issues presented by the hearing request;
 - B) Receive stipulations, admissions of fact and the contents and authenticity of documents;
 - C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
 - D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
 - 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
- e) Hearing

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- 1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:
 - A) To administer oaths and affirmations;
 - B) To receive relevant evidence;
 - C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
 - D) To consider and rule upon procedural requests;
 - E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
 - F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.
- 2) Every person desiring to participate in the hearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.
- 3) All participants in the hearing shall have the right to be represented by counsel.
- 4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
- 5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition.
- 6) Where applicable, the following shall be addressed prior to receiving evidence:
 - A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.
 - B) Ruling may be made on any pending motions.
 - C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

f) Evidence

- 1) Admissibility: A party shall be entitled to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the

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- courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.
- 2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.
 - 3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.
 - 4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.
 - g) Record of proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.
 - h) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.
 - i) Default
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the

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absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

j) Order

- 1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representative, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.
- 2) The order shall grant the petition based on the record if the Hearing Officer finds that establishing the drilling unit will prevent waste, protect the correlative rights of the owners in the pools, and prevent the unnecessary drilling of wells.
- 3) No drilling unit shall be established which requires the allocation of more than 40 acres of surface area nor less than 10 acres of surface area to an individual well for production of oil from a pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) provided, however, that the Department may permit the allocation of greater acreage to an individual well and provided further that the spacing of wells in any pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) shall not include the fixing of a pattern except with respect to the 2 nearest external boundary lines of each drilling unit. (Ill--Rev--Stat--1991--Ch--96-1727--par--5433+ [225 ILCS 725/21.1])
- 4) The drilling units established by an order under this Section shall be of approximately uniform size and shape for each entire pool, except that where circumstances reasonably require, the Department may grant exceptions to the size or shape of any drilling unit or units, in which case the order shall state the particular circumstances that require such exception.
- 5) Each order establishing drilling units shall specify the size and shape of the unit, which shall be such as will result in the efficient and economical development of the pool as a whole, and subject to the provisions of subsection (j)(3) above, the size of no drilling unit shall be smaller than the maximum area that can be efficiently and economically drained by one well.
- 6) Each order establishing drilling units for a pool shall cover all lands determined or believed to be underlain by such pool. Each order establishing drilling units may be modified by the Department to change the size thereof, or to permit the drilling of additional wells.
- 7) Each order establishing drilling units shall prohibit the

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drilling of more than one well on any drilling unit for the production of oil or gas from the particular pool with respect to which the drilling unit is established and subject to the provisions of subsection (j)(3) above shall specify the location for the drilling of such well thereon, in accordance with a reasonably uniform spacing pattern, with necessary exceptions for wells drilled or drilling at the time of the application. If the Department finds, after notice and hearing, notice being made as provided in this Section to all parties of record in the proceeding, that surface conditions would substantially add to the burden or hazard of drilling such well at the specified location, or for some other reason it would be inequitable or unreasonable to require a well to be drilled at the specified location, the Department may issue an order permitting the well to be drilled at a location other than that specified in the order establishing drilling units.

- 8) After the date of the notice for a hearing called to establish drilling units, no additional well shall be commenced for production from the pool until the order establishing drilling units has been issued unless the commencement of the well is authorized by order of the Department.

- 9) After an order establishing a drilling unit or units has been issued by the Department, the commencement of drilling of any well or wells into the pool with regard to which such unit was established for the purpose of producing oil or gas therefrom, at a location other than that authorized by the order, or by order granting exception to the original spacing order is hereby prohibited. (Ill--Rev--Stat--1991--Ch--96-1727--par--5433+ [225 ILCS 725/21.1])

- 10) As an alternative to denying the petition for a drilling unit, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the Petitioner in order to avoid dismissal. If the Petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine such documents. If the Petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of such hearing to all parties of record.

k) Order--Final Administrative Decision

The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.160 Director's Decision

- a) Upon receipt of a notice of violation, the Director of the Department,

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or his designee, shall conduct an investigation and may affirm, vacate or modify the notice of violation. In determining whether to take action in addition to remedial action necessary to abate a violation the Director shall consider:

- 1) the person's or permittee's history of previous violations, including violations at other locations and under other permits;
 - A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department under Section 240.180 or if the time to request such review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative decision or a final judicial decision affirming the Department's decision;
 - B) No violation for which the notice or order has been vacated shall be counted;
 - 2) the seriousness of the violation, including any irreparable harm to the environment or damage to property;
 - 3) the degree of culpability of the person or permittee; and
 - 4) the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the person or permittee.
- b) Modification of the notice of violation may include:
- 1) any different or additional remedial actions necessary to abate the violation, as set forth in Section 240.150(b)(2), and the time within which the violation must be abated;
 - 2) the assessment of civil penalties not to exceed \$1,000.00 a day for each and every act of violation;
 - 3) probationary or permanent modification or conditions on the permit which may include special monitoring or reporting requirements; and
 - 4) revocation of the permit. (tiii-Rev-Stat--1991r-eh-96-i/2r-par-5413) [225 ILCS 7/25/8a]
- c) The Director shall determine whether or not to assess civil penalties based on the factors set forth in subsection (a) above. If a penalty is assessed by the Department, the penalty shall be computed as follows:
- 1) Administrative violations, including, but not limited to, the failure to file the reporting, permitting and bond transfer forms required by the Department, the failure to submit information required by the Department pursuant to well file reviews, shall be assessed on an permittee-specific basis. The Department may assess up to \$250.00 for an administrative violation as follows:
 - A) History of Violations:
 - i) No previous violation of the same rule: add \$25.00-
 - ii) One previous violation of the same rule: add \$50.00-
 - iii) Two previous violations of the same rule: add \$100.00-
 - iv) Three or more previous violations of the same

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rule: add \$150.00-

- B) Permittee's Actions:
- i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$100.00-
 - ii) If the permittee abated the violation within the specified time frame: subtract \$200.00-
 - iii) If the permittee either substantially abated the violation within the specified time frame or, if all corrective actions were not completed yet the permittee requested and received an extension of the abatement deadline: subtract \$100.00-
- 2) Operating violations, including, but not limited to, pressure on the annulus, the failure to maintain the well and flow line in a leak-free condition, the failure to maintain lined pits, the failure to configure the wellhead for the inspection of the annulus, the failure to comply with specified permit conditions, the failure to report or clean up a spill and the failure to maintain containment dikes, maintain required performance bond in force for the wells under permit and pay annual well fees, shall be assessed on a permittee-specific basis. Multiple incidents of the same violation against a permittee on the same occasion shall not be considered separate violations. The Department may assess up to \$500.00 for an operating violation as follows:
- A) History of Violations:
- i) No previous violation of the same rule: add \$50.00-
 - ii) One previous violation of the same rule: add \$100.00-
 - iii) Two or more previous violations of the same rule: add \$150.00-
- B) Seriousness:
- i) If the violation had a low degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$50.00; or, if the violation had a high degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$100.00; or, if the violation caused environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$200.00-
 - ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$200.00-
- C) Permittee's Actions:
- i) If the permittee was previously notified of the

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violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$100.00-

ii) If the violation occurred as a result of the permittee's lack of reasonable care: add \$50.00; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$200.00-

iii) If the permittee abated the violation within the specified time frame: subtract \$250.00-

iv) If the permittee either substantially abated the violation within the specified time frame, or, if all corrective actions were not completed yet the permittee requested and received an extension of the abatement deadline: subtract \$100.00-

3) Drilling or operating a well required to be permitted under the Act without first obtaining a permit from the Department, operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority or operating an annular or casing injection/disposal well, operating a well in violation of Department spacing requirements, or operating wells by a permittee for whom funds have been expended from the PRF Fund, or if the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or this Part or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, shall result in the assessment of up to a \$1,000.00 penalty for each and every such violation. Assessments for these violations are computed as follows:

A) History of Violations:

i) No previous violation of the same rule: add \$100.00-

ii) One or more previous violation of the same rule: add \$500.00-

B) Seriousness:

i) If the violation caused environmental damage to surface water, ground water or wildlife: add \$200.00-

ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$200.00-

C) Permittee's Action:

i) If the violation occurred as a result of the permittee's lack of reasonable care: add \$100.00; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$500.00-

ii) If the permittee abated the violation within the specified time frame: subtract \$250.00-

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iii) If all corrective actions were not completed, yet the permittee requested and received an extension of the abatement deadline: subtract \$100.00-

d) Any responsible person who willfully or knowingly authorized, ordered, or carried out any violation cited in the Director's decision shall be subject, after notice, to the same actions, including civil penalties, which may be imposed on the person or permittee under this Section. (1117-Rev7-Stat--1997--ch7--96-1727--par7--5413) [225 ILCS 725/8a]

e) The Director or his designee shall serve the person or permittee with his decision at the conclusion of his investigation. The Director's decision shall provide that the person or permittee has the right to request a hearing in accordance with Section 240.180. The Director's decision affirming, vacating or modifying the notice of violation shall be served in accordance with Section 8a of the Act.

f) A Director's decision not appealed in accordance with Section 240.180 within 30 days after of service shall become a final administrative decision of the Department, pursuant to Section 10 of the Act. The filing of a request for hearing under Section 240.180 shall not operate as a stay of the Director's decision.

g) The permittee may, within 30 days from the date of service of the Director's Decision, submit to the Department, in writing, any mitigating factors which permittee believes to be relevant to the violation cited in the Director's Decision.

h) Upon further investigation, the Director of the Department, or his designee, may issue an amended or replacement Director's Decision.

1) An Amended Director's Decision shall be issued to:

A) extend the amount of time provided to complete remedial action necessary to abate the violation set forth in the Director's Decision; or

B) reduce the civil penalty assessed in the Director's Decision.

2) A replacement Director's Decision shall be issued to correct an administrative error contained in the Director's Decision or the Notice of Violation.

3) The permittee shall have no right to hearing associated with the issuance of an amended or replacement Director's Decision.

i) If the Director's decision includes the assessment of a civil penalty, and the person or permittee named in the Director's decision does not request a hearing in accordance with Section 240.180 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after of service of the Director's decision.

j) All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund. (1117-Rev7-Stat--1997--ch7--96-1727--par7--5413) [225 ILCS 725/8a]

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 240.180 Enforcement Hearings

- a) *A person or permittee shall have 30 days from the date of service of the Director's decision or of the cessation order to request a hearing.* [225 ILCS 725] Except as provided in subsection (b) below, a person or permittee seeking to contest any Director's decision in which a civil penalty has been assessed shall submit the assessed amount to the Department together with a timely request for hearing. The assessed amount shall be ~~held-in-an-interest-hearing-essow~~ deposited by the Department pending the outcome of the hearing. The assessed amount ~~together-with-any-interest,~~ shall be ~~returned~~ refunded to the person or permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the ~~Illinois--Department~~ Illinois--Department of Natural Resources office located in ~~of--Mines--and--Minerals--811-and-8as-Division~~ Springfield, Illinois.
- b) If a civil penalty assessment is imposed against a person pursuant to Section 240.160(d), such person will not be required to prepay the penalty ~~into-essow~~ in order to contest either the amount of the penalty or the fact of the violation.
- c) *Upon receipt of a request for hearing submitted in accordance with subsections (a) or (b), the Department shall provide an opportunity for a formal hearing upon not less than 5 days written notice mailed to the permittee or person submitting the hearing request.* [225 ILCS 725/8a] The hearing shall be conducted by an impartial hearing officer not employed by the Department and shall be conducted in accordance with the following procedures:

- 1) A pre-hearing conference shall be scheduled within 30 days after of the request for hearing:
 - A) to define the factual and legal issues to be litigated at the administrative hearing;
 - B) to determine the timing and scope of discovery available to the parties;
 - C) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each such witness;
 - D) to schedule a date for the administrative hearing; and
 - E) to arrive at an equitable settlement of the hearing request, if possible.
 - F) Pre-hearing conferences under this Section may be conducted via telephone conference if such procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted the place designated by the hearing officer.

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- G) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Department's hearing officer shall render an order granting or denying such motions filed within ~~fifteen--t~~ 15 days after of service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the Director's Decision or cessation order being contested.
- 2) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the hearing officer and shall constitute the Department's final administrative decision as to the Director's Decision or cessation order being contested.
- 3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield, Illinois, to the production and/or injection/disposal well identified in the Director's decision or cessation order being contested if facilities are available and convenient satisfactory to the Department.
- 4) At the hearing the Department shall have the burden of proving the facts of the violation alleged in the notice of violation or cessation order at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or permittee shall have the right to challenge the hearing officer if the person or permittee believes the hearing officer is prejudiced against him or has a conflict of interest. If the hearing officer disqualifies himself, the Director shall designate a new hearing officer. The hearing officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.
- 5) The Director shall review the administrative record in a contested case, in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director

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- shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.
- d) The person or permittee's failure to request a hearing in accordance with subsection (a) shall constitute a waiver of all legal rights to contest the Director's decision or the cessation order, including the amount of any civil penalty assessed. Within 30 days of the close of the hearing record or expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

Section 240.190 Temporary Relief.

- a) Pending the holding of a hearing or entry of a final administrative decision relating to a cessation order issued under Section 240.170, the person or permittee affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief. ~~††††-Rev--Stat--1991r--ch--96-172r--par--5413†~~ [225 ILCS 725/8a]. The person or permittee shall serve the request for temporary relief within 14 days after of service of the cessation order.
- b) The Department shall commence a hearing within 5 days after receipt of a timely request for temporary relief and may grant such relief, under such conditions as it may prescribe, if the person or permittee requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to him and such relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property. ~~††††-Rev--Stat--1991r--ch--96-172r--par--5426†~~ [225 ILCS 725/19.1].
- c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located at ~~389-West--Jefferson--Street--Suite--389†~~ in Springfield, Illinois.
- d) The Department's hearing officer shall issue a final administrative decision granting or denying temporary relief from the cessation order within 7 days after of the close of the administrative record, pursuant to Section 10 of the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section 240.210 Application for Permit to Drill, Deepen or Convert to a Production Well

- a) No person shall drill, deepen or convert any well to a production well without a permit from the Department.

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- b) Application for a permit to drill, deepen or convert to a production well shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the non-refundable fee of \$100.00 and the required bond under Subpart O ~~Subpart-B~~.
- c) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within ~~sixty--4~~ 60† days following the date of notification.
- d) Any well for which a permit is required under the Act, other than a plugged well, which was drilled prior to the effective date of the Act and for which no permit has previously been issued, is required to be permitted. Application for a permit shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the required bond under Subpart O and existing well construction information reported on Department forms ~~Subpart-B~~. If application is made on or before August 14, 1991, no permit fee is required. An application made after that date shall be accompanied by the non-refundable fee of \$100.00†. Spacing requirements and provisions of the Act and these rules pertaining to well construction shall not apply. After August 14, 1991, any unpermitted well to which this Subpart applies will be deemed to be operating without a permit and subject to the penalties set forth in the Act. ~~††††-Rev--Stat--1990-Supp-r--ch--96-17r--par--5418†~~ [225 ILCS 725/12].

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.230 Authority of Person Signing Application

- a) The application for a permit to drill, deepen, or convert to a production well shall identify whether the owner of the right to drill and to operate the well is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for such owner.
- b) If the owner is an individual, the application shall be signed by the individual. If the owner is a partnership, the application shall be signed by a general partner. If the owner is a corporation, the application shall be signed by an officer of the corporation.
- c) In lieu of the signature of the owner or such authorized person, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the application.

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- d) The entity or person to whom the permit is issued shall be called the Permittee and shall be responsible for all regulatory requirements relative to the well.
- e) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.
- f) If the applicant is an individual, partnership, or other unincorporated entity that is not a resident of Illinois, provide an irrevocable consent to be sued in Illinois.
- g) If the applicant has been issued a FEIN, that number must be reported on the application.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.250 Issuance of Permit to Drill

- a) If the applicant satisfies requirements of the Act and Rules the Department shall issue a permit.
- b) A permit shall not be issued to an applicant where: a final administrative order of the Department is outstanding against the applicant or against a person or permittee who is an officer, director, partner or owner of more than a 5% interest of the applicant; where obligated funds from the Plugging and Restoration Fund are outstanding under Subpart P, or where annual well fees are outstanding under Subpart Q.
- 1) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
- 2) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
- 3) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department;
- 4) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department [225 ILCS 725/8a];
- 5) funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P, for which the applicant was a previous permittee or the applicant was an officer, director, partner or person with an interest exceeding 5% in a permittee for which funds were obligated; or
- 6) the applicant is delinquent in the payment of Annual Well Fees or is an officer, director, partner or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees.
- c) Permits shall expire one year from the date of issuance unless acted

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- upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but not to exceed two (2) years from date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set, conversion operations completed or well repermitted. If the drilling rig is removed prior to the expiration of the permit, any further drilling or deepening shall require repermitting.
- d) Permits are not transferable prior to the drilling of the well.
- e) If during drilling the well is lost (collapsed casing or hole) etc., the permittee may terminate drilling and move the rig up to 30 feet from the permitted location and commence drilling operations, provided that:
- i) the permittee notifies the District Office prior to the move and receives approval;
- 2) a new application and fee is submitted within ten (10) days in accordance with Section 240.220 of this Part; and
- 3) the new location is in compliance with all other requirements of this Part.
- f) The Department shall revoke a permit that was issued in error or if the application contained an error or misrepresentation or the Permittee fails to meet permit conditions.
- g) The Department shall notify the permittee of their intent to revoke a permit effective thirty (30) days from the date of notice unless a hearing is requested in accordance with subsection (h) below.
- h) If a written objection to the revocation is filed within thirty (30) days after the date of the notice:
- i) A pre-hearing conference shall be held within fifteen (15) days after the receipt after the request for hearing.
- A) A pre-hearing conference shall be scheduled in order to:
- i) Simplify the factual and legal issues presented by the hearing request;
- ii) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
- iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce at the hearing;
- iv) Set a hearing date; and
- v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
- 2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois.
- 4) At the hearing the Department shall present evidence in support of its determination under subsection (f) above. The permittee may present evidence contesting the Department's determination under

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- subsection (f) above, the hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
- j) Within thirty (30) days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.
- k) The permittee's failure to request a hearing in accordance with subsection (h) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision pursuant to Section 10 of the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.251 Revocation of Permit to Drill

- a) The Department shall revoke a permit if:
- 1) The permittee fails to meet permit conditions;
 - 2) The permit was issued in error;
 - 3) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
 - 4) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
 - 5) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department;
- or
- 6) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department. [225 ILCS 725/8a]
- b) The Department shall notify the permittee of the Department's intent to revoke a permit effective 30 days from the date of notice unless a hearing is requested in accordance with subsection (c) below.
- c) If a written objection to the revocation is filed within 30 days after the date of the notice:
- i) A pre-hearing conference shall be held within 15 days after the receipt of the request for hearing.
 - A) A pre-hearing conference shall be scheduled in order to:
 - i) Simplify the factual and legal issues presented by the hearing request;
 - ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;
 - iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;

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- iv) Set a hearing date; and
- v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
- 2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois.
- d) At the hearing, the Department shall present evidence in support of its determination under subsection (a) above. The permittee may present evidence contesting the Department's determination under subsection (a) above. The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
- e) Within 30 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.
- f) The permittee's failure to request a hearing in accordance with subsection (c) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 240.255 Underground injection and Disposal Projects--(Recodified)
Conversion to a Water Well

Production wells may not be converted to a water well which is required to have a permit from the Illinois Department of Public Health.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section 240.380 Issuance of Permit

- a) If the applicant satisfies the requirements of the Act and this Part Rules, the Department shall issue a permit.
- b) A permit shall not be issued to an applicant where: a--final administrative order of the Department--is outstanding--against--the applicant--or--against--a--person--or--permittee--who--is--an--officer--director--partner--or--owner--of--more--than--a--5%--interest--of--the--applicant--or--where--obligated--funds--from--the--plugging--and--restoration--fund--are--outstanding--under--Subpart--B--or--where--annual--well--fees--are--outstanding--under--Subpart--G.

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- 1) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
 - 2) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
 - 3) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department;
 - 4) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department [225 ILCS 725/8a];
 - 5) funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P, for which the applicant was a previous permittee or the applicant was an officer, director, partner or person with an interest exceeding 5% in a permittee for which funds were obligated; or
 - 6) the applicant is delinquent in the payment of Annual Well Fees or is an officer, director, partner or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees.
- c) Permits shall expire one year from the date of issuance unless acted upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but not to exceed ~~one~~ 17 year from the date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set, conversion operations completed or well re-permitted.
- d) Permits are not transferable prior to the drilling of the well.
- e) If during drilling the well is lost (collapsed casing or hole, etc.), the permittee is required to submit a new application, and receive a permit prior to drilling an offset well.
- f) The Department shall revoke a permit that was issued in error or if the application contained an error or misrepresentation.
- g) The Department shall notify the permittee of its intent to revoke a permit effective ~~thirty~~ 30 days from the date of notice unless a hearing is requested in accordance with subsection (h) below.
- h) If a written objection to the revocation is filed within ~~thirty~~ 30 days after the date of the notice:
- 1) A pre-hearing conference shall be held within ~~fifteen~~ 15 days after the receipt after the request for hearing.
 - A) A pre-hearing conference shall be scheduled in order to:
 - i) Simplify the factual and legal issues presented by the hearing request;
 - ii) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
 - iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;

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- iv) Set a hearing date; and
 - v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
 - B) Pre-hearing conferences may be held by telephone conferences if such procedure is acceptable to all parties.
 - 2) All hearings under this Subpart shall be conducted in the Department's offices located in ~~at--389--West--Jefferson--Street~~ Suite-389, Springfield, Illinois.
 - i) At the hearing, the Department shall present evidence in support of its determination under subsection (f) above. The permittee may present evidence contesting the Department's determination under subsection (f) above. The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
 - j) Within ~~thirty~~ 30 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.
 - k) The permittee's failure to request a hearing in accordance with subsection (h) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.
- (Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.385 Conversion to a Water Well

Class II wells may not be converted to a water well which is required to have a permit from the Illinois Department of Public Health.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART D: SPACING OF WELLS

Section 240.420 Well Location Exceptions within Drilling Unit

- a) Whenever the topographical conditions (e.g., hills, creeks, ponds, lakes) or cultural features (e.g., buildings, roadways, powerlines, pipelines) of a drilling unit render it impractical to drill an oil or gas well at a location conforming to the requirements of Section 240.410, an oil or gas well may be drilled at a nonconforming location as follows:
 - 1) The permittee is allowed, without prior approval from the Department, to move the location maximum of ~~thirty~~ 30 feet

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from the permitted location, provided the amended location is not closer than 330 feet (or other applicable setback) to the nearest lease boundary line, and provided the amended location is surveyed and an amended application, showing the amended location and the reason the location was moved, is submitted to the Department within ~~ten~~-10 days of moving the location.

- 2) If the proposed well location is more than ~~thirty~~-30 feet from a location conforming to the requirements of Section 240.410, an application must be submitted showing the proposed location and the reason the location is requested. Approval for such location must be received from the Department prior to the commencement of drilling. If the proposed location is less than 330 feet (or other applicable setback) from the nearest lease boundary line, the application shall be accompanied by a written agreement or agreements between the applicant and any leaseholders or mineral rights owners (if no leaseholder exist) whose leases or mineral rights are adjacent to and less than 330 feet (or other applicable setback) from the proposed location. In lieu of the submission of a written agreement or agreements, the applicant shall give notice by certified mail, return receipt requested, to any leaseholders or mineral rights owners (if no leaseholders exist) whose leases or mineral rights are adjacent to and less than ~~three-hundred-thirty~~-330 feet (or other applicable setback) from the proposed location. The notice shall include the proposed location of the well and the reason the location is requested, and shall inform the leaseholders or mineral rights owners that they may file written objections with the Department within ~~fifteen~~-15 days after service of the notice. If a written objection is received, the matter shall be set for hearing, which shall be conducted in accordance with the provisions of Section 240.370(d) of this Part.
- 3) In determining whether to approve a proposed nonconforming location, the Department will consider the feasibility and expense of drilling on location, any hazard or damage to persons or property or to the environment, and whether the proposed location would adversely affect the correlative rights of any of the owners of the reservoir or result in waste or the drilling of unnecessary wells.
- b) If at the time of application, a lease immediately adjacent to a proposed drilling unit has producing wells located less than 330 feet from the common boundary line, then a well on the proposed drilling unit may be located at a distance closer than 330 feet but no closer than the distance to the common boundary line of the immediately offsetting well.
- c) If a drilling unit is located over an active mine, the mined-out or inaccessible portion of an active mine, an abandoned mine, or the undeveloped limits of a mine, the proposed well can be located so that it will be drilled into an existing or proposed mine pillar subject to

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the conditions and limitations set forth in subsections (a) and (b) above.

- d) If during drilling the well is lost (collapsed casing or hole, etc.), the permittee may terminate drilling and move the rig up to 30 feet from the permitted location and commence drilling operations, provided that:

- 1) the permittee notifies the District Office prior to the move and receives approval;
- 2) a new application and fee is submitted within 10 days in accordance with Section 240.220 of this Part; and
- 3) the new location is in compliance with all other requirements of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.455 Horizontal Drilling

- a) For purposes of this Subpart a horizontal well is a wellbore which has an overall length within the reservoir of twice the thickness of the reservoir.

b) a An oil or gas production well may be developed with one or more horizontal drainholes drilled from a single vertical wellbore and may shall be considered a single well and permitted in accordance with the provisions of Subpart B.

c) b If the proposed horizontal well will be part of an enhanced oil recovery project, the spacing requirements for all portions of the horizontal drainholes shall comply with Section 240.430(b).

d) e If the proposed well is to be a primary recovery well, the spacing requirements for all portions of the horizontal drainholes shall comply with Section 240.410, or if a modified or special drilling unit is requested, in compliance with Section 240.460 and/or 240.465.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.460 Modified Drilling Unit

- a) Upon application of any person having an interest in oil or gas in a lease or drilling unit, the Department shall schedule a hearing to consider a petition for modification of the location of the standard drilling unit described in Section 240.410, based on geologic or engineering characteristics of the reservoir, relative to the land survey system and setback requirements specified in Section 240.410 and well density specified in Section 240.465 of this Part.

b) Contents of petition shall include:

- 1) the name and address of the petitioner;
- 2) the petitioner's geologic or engineering reason for requesting a

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modified drilling unit; and

- 3) a legal land description of the drilling unit sought to be established.

c) ~~b)~~ Execution and Filing

- 1) The petition to modify a drilling unit in accordance with this Section or establish a special drilling unit in accordance with Section 240.465 shall be filed with the ~~Illinois~~ Department of ~~Mines and Minerals--Oil and Gas--Division~~ Offices located in Springfield, Illinois. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas ~~Department--Oil and Gas--Division~~.

- 2) Every petition shall be signed by the petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the best of his knowledge, information and belief there is good ground to support the same.

- 3) 1) If after the petition is filed, and prior to setting a hearing date, the Department finds the petition deficient relative to the requirements of subsection (b) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

- d) ~~e)~~ Notice of hearing shall be given by the applicant to all mineral owners within the boundaries set forth in the application, and to all permittees having oil or gas wells within ~~one-half~~ ~~1/2~~ mile of the boundaries of the lease or drilling unit, which are completed in the proposed zone of production, by U.S. Postal Service certified mail, return receipt requested, and by publication in a newspaper of general circulation in each county in which any portion of the proposed lease or drilling unit or units is located, at least ~~ten~~ ~~10~~ days prior to the hearing.

e) ~~d)~~ Pre-Hearing Conferences

- 1) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:

- Simplify the factual and legal issues presented by the hearing request;
- Receive stipulations, admissions of fact and of the contents and authenticity of documents;
- Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
- Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

- 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.

f) ~~e)~~ Hearing

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- 1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

- To administer oaths and affirmation;
- To receive relevant evidence;
- To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- To consider and rule upon procedural requests;
- To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
- To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

- 2) Every person desiring to participate in the hearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.

- 3) All participants in the hearing shall have the right to be represented by counsel.

- 4) The Hearing Officer shall allow parties to present statements, testimony, evidence and arguments as may be relevant to the proceeding.

- 5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition.

- 6) Where applicable, the following shall be addressed prior to receiving evidence:
- The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

- Ruling may be made on any pending motions.
- Any other preliminary matters appropriate for disposition prior to presentation of evidence.

g) ~~f)~~ Evidence

- 1) Admissibility: A party shall be entitled to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence received by the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of

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the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

h)†† Record of Proceedings; Testimony

The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.

i)†† Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing.

j)†† Default

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed

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pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties control.

k)†† If the Department finds, based on the reservoir's geological and engineering characteristics, that a modified drilling unit or units is necessary to prevent waste, to protect correlative rights, and to prevent the unnecessary drilling of wells, the Department shall enter an order establishing such drilling unit or units. Each order shall:

- 1) specify the location of each drilling unit relative to the land survey system; and
- 2) specify the set back from the drilling unit boundaries for the location of the oil or gas well on each drilling unit.

l)†† Order--Final Administrative Decision

The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.465 Special Drilling Unit

a) Upon application of any person having an interest in oil and gas in a lease or drilling unit, the Department shall schedule a hearing to consider a petition for consider the establishment of a special drilling unit for:

- 1) a drilling unit size (acreage) and shape ~~spaceing~~ other than specified in Section 240.410; or
- A) provided well density specified in Section 240.430(a) is maintained; and
- B) a standard drilling unit cannot be formed utilizing the integration provisions of Section 240.132.

2) ~~for~~ the purpose of horizontal drilling in accordance with Section 240.455.

b) Contents of petition shall include:

- 1) the name and address of the petitioner;
- 2) the petitioner's reason for requesting a special drilling unit including the submission of supporting geologic and engineering data; and
- 3) a legal land description of the drilling unit sought to be established.

c)†† Applications to establish a special drilling unit based--on directional--drilling shall be processed in accordance with the petition filing, execution and hearing ~~spaceing~~ provisions specified under Section 240.460(c)†† through (l)††.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 240.470 Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

a) Upon application of any person having an interest in oil or gas in all or a portion of a reservoir, the Department shall consider the establishment of pool-wide drilling units other than specified in Section 240.410 of this Part for all or a portion of a reservoir for the production of oil or gas.

b) Applications to establish pool-wide drilling units based upon reservoir characteristics shall be processed in accordance with Section 240.133 of this Part.

c) The following pool-wide oil well spacing is established by the Department.

1) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 16, 17, 20, 21 and 29 of Township 3 North, Range 3 West, Schuyler County, Illinois, known as the Brooklyn Pool.

2) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 29, 30, 31 and 32 of Township 1 South, Range 3 West, Sections 24, 25, 26, 33, 34, 35 and 36 of Township 1 South, Range 4 West, Sections 5, 6 and 8 of Township 2 South, Range 3 West and Sections 1, 2, 3 and 4 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Buckhorn Consolidated Pool.

3) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 8, 9, 15, 16 and 17 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Siloam Pool.

4) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 6 and 7 of Township 1 North, Range 1 West, Sections 1, 2 and 12 of Township 1 North, Range 2 West and Sections 35 and 36 of Township 2 North, Range 2 West, Schuyler County, Illinois, known as the Rushville Central Pool.

5) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 25 and 36 of Township 1 South, Range 5 West, Sections 1, 2, 10, 11 and 12 of Township 2 South, Range 5 West, Adams County, Illinois and in Section 7 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Kellerville Pool.

6) Ten (10) acre spacing is established for the St. Louis Limestone (Mississippian) in Sections 6, 7, 18 and 19 of Township 11 North, Range 11 East and Sections 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 21, 28, 29 and 30 of Township 11 North, Range 14 West, Clark County, Illinois, known as the Westfield Pool.

7) Ten (10) acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 31, 32, 33 and 34 of Township 12 North, Range 14 West, Clark County, Illinois, known as the Westfield Pool.

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8) Ten (10) acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 2, 3, 10, 11, 12 and 13 of Township 9 North, Range 14 West and in Sections 14, 15, 22, 23, 24, 25, 26, 35 and 36 of Township 10 North, Range 14 West, Clark County, Illinois, known as the Martinsville Pool.

9) Ten (10) acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 22, 23, 26, 27, 34 and 35 of Township 9 North, Range 14 West, Clark County, Illinois, known as the Johnson South Pool.

10) Ten (10) acre spacing is established for the Trenton Limestone in Sections 34 and 35 of Township 1 South, Range 10 West and in Sections 2, 3, 11 and 24 of Township 2 South, Range 10 West, Monroe County, Illinois, known as the Waterloo Pool.

11) Ten (10) acre spacing is established for the Trenton Limestone in Sections 27, 33 and 34 of Township 1 North, Range 10 West, St. Clair County, Illinois, known as the Dupo Pool.

12) Ten acre spacing is established for the Silurian (reef section) in the S1/2 SE1/4 and south 1/2 acres of fractional SW1/4 of Section 18; S1/2 SW1/4 of Section 17; NW1/4 and NE1/2 SW1/4 and SW1/4 SW1/4 of Section 20; all of Section 19 except the W1/2 S1/2 of fractional SW1/4, all located in Township 2 South, Range 3 West, Washington County, known as the Nashville Pool.

d) The following pool-wide natural gas spacing is established by the Department.

One hundred sixty Hundred-Sixty-(160) acre spacing is established for the New Albany Shale Gas in the West half of Section 5, and all of Sections 6, 7, 8, 17, 18, 19 and 20 of Township 4 North, Range 10 West and in Sections 1, 2, 11, 12, 13 and 14 and the East half of Section 24, of Township 4 North, Range 11 West, Lawrence County, Illinois.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART E: WELL DRILLING,
COMPLETION AND WORKOVER REQUIREMENTS**Section 240.530 Completion Fluid and Completion Fluid Waste Handling and Storage**

a) Completion Fluid Handling and Storage Prior to Use
If completion Completion fluids are temporarily stored at the well site prior to use in completion activities, the fluids shall be stored in a lined completion pit or leak free above ground container.

b) Completion Fluid Waste Handling and Storage
Completion fluid wastes generated from the well during completion activities shall be collected at the well site in a completion pit or leak free above ground container. A pit used for this purpose need not be lined except as provided in subsection (a) above.

c) Completion and Workover Pits

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- 1) Pits used for completion fluids and completion fluid wastes shall be constructed with sufficient capacity to contain the fluids within the pits, and maintained in a manner that reasonably prevents against overflow during completion or workover activities and prior to commencing pit restoration in accordance with Section 240.540 of this Part. Discharge of completion fluids and completion fluid wastes from the pits into any surface water or water drainage way is prohibited.
- 2) The sediment pit or the drilling fluid circulation pit used during drilling operations may be used for the collection of completion fluid wastes during completion activities. If either pit is used as a completion pit, drill cuttings and drilling fluids shall first be removed and a dike constructed to prevent completion fluid wastes from entering the other pit.
- 3) Completion or workover pits used to store completion fluids prior to use in the well shall be lined with a liner at least 20 mils in thickness.
- 4) Completion or workover pits shall be used only for the temporary storage of completion fluids and completion fluid wastes in accordance with the requirements of this subsection, and shall not be used for the disposal of general oilfield wastes.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.540 Drilling and Completion Pit Restoration

- a) Sediment, drilling fluid circulation and reserve pits, except sediment pits used as completion pits, shall be filled and leveled within ~~six~~-6 months after drilling ceases. Drilling fluid wastes may be disposed of by on-site burial or surface application. Saltwater or Oil Drilling Fluid wastes shall be removed from the site and disposed of in an Illinois Environmental Protection Agency permitted special waste landfill, injected in a Class II well, disposed of in a well during the plugging process or buried in one of the lined pits and the liner folded over and an additional liner material added to completely cover the drilling waste and buried at least 5 three-3 feet below the ground surface.
- b) If surface application is used for disposal of drilling fluid wastes (prohibited for Saltwater or Oil Based Drilling Fluids), the wastes shall be landspread, incorporated and stabilized to limit run off of storm water containing drilling fluid waste. Discharge of drilling fluid waste into surface waters or water drainage ways is prohibited.
- c) Drilling pits used as completion pits in accordance with Section 240.530(c)(2) of this Subpart shall be filled and leveled within ~~six~~-6 months after completion activities cease. Newly constructed completion or workover pits shall be filled and leveled within ~~ninety~~ 90 days after completion or workover activities cease. All

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completion or workover fluid wastes shall be removed from the pit and disposed of in a Class II Injection well (or in above ground tanks of containers pending disposal) prior to restoration. Any remaining residue not removed can be disposed of through on-site burial. Only residue from that particular well on which completion or workover activities were performed can be disposed of by on-site burial.

- d) All drilling, completion and workover pits shall be filled and leveled in a manner that allows the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.550 Disposal of General Oilfield Wastes and Other Wastes

All general oilfield wastes generated during drilling, and completion and workover activities shall be temporarily stored in on-site containers, and shall be removed from the site prior to or at the conclusion of the given activity and disposed of in accordance with the federal Resource Conservation and Recovery Act of 1976. ~~General oilfield wastes shall not be disposed of through on-site burial, in drilling or completion pits, or through mixing, with drilling fluid or completion fluid wastes prior to disposal.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART F: WELL CONSTRUCTION, OPERATING, AND REPORTING REQUIREMENTS FOR PRODUCTION WELLS**Section 240.605 Drilled Out Plugged Hole (DOPH) Notification**

The permittee shall notify the District Office for the county in which the well is located 24 hours prior to commencing drilling of a drilled out plugged hole (DOPH).

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 240.610 Construction Requirements for Production Wells

- a) Surface Casing Requirements for Wells Drilled After the Effective Date of this Section
 - 1) Steel surface casing or fiberglass casing meeting API standards shall be set to a depth of at least ~~one hundred~~-100 feet, or ~~fifty~~-50 feet below the base of the fresh water, whichever is deeper.
 - 2) Surface casing or alternative surface casing shall be set under

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the supervision of a representative of the Department and the permittee shall give at least ~~twenty-four~~-t 24t hours notice to the District Office prior to setting the surface casing.

- 3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.
- 4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than ~~four~~-t 4t hours.

- 5) At the time of submitting the permit application, the permittee may request approval from the Department for one of the following alternative surface casing procedures:

- A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b).

- B) If the unconsolidated material is greater than 25 feet thick, surface casing is required to be set to the top of the bedrock, a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b) below.

- C) For wells in which the total depth is less than 250 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

- b) Production Casing Requirements for Wells Drilled After the Effective Date of this Section.

Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of ~~two-hundred-fifty~~-t 250t feet above the shallowest producing interval. The casing shall be set no higher than ~~fifty~~-t 50t feet above the top of the uppermost producing interval in an open hole completion.

- c) Production Casing Requirements for Existing Wells

- 1) For all existing wells without production casing:

- A) If surface casing was previously set, production casing shall be set and cemented a minimum of ~~two-hundred-fifty~~-t 250t feet in accordance with subsection (b) above.

- B) If surface casing was not previously set, production casing shall be set and cemented to surface in accordance with subsection (a)(5) above.

- 2) Wells drilled prior to the effective date of this Section that

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contain drive pipe without cement behind the drive pipe will require no further cementing work.

- d) Tubing and Packer in Flowing Wells

All wells flowing as a result of an enhanced oil recovery project shall be produced through tubing and packer. The packer shall be set within ~~two-hundred~~-t 200t feet of the top of the producing interval and within the cemented portion of the production casing. The permittee shall contact the District Office in which the well is located at least ~~twenty-four~~-t 24t hours prior to the initial setting or any resetting of the packer to enable an inspector to be present when the packer is set.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.630 Operating Requirements

- a) The well and wellhead shall be maintained in a leak-free condition.
- b) All spills of produced water or oil occurring at the well-site due to a leaking wellhead shall be cleaned up in accordance with Subpart I ~~Subparts H and I~~.

- c) Wells that have not produced for more than ~~two~~-t 2t years shall be temporarily abandoned or plugged in accordance with Subpart K.

- d) Casinghead gas, produced in conjunction with oil production, that is not collected for use or sale, shall be flared unless the Department approves an exemption from this requirement. In determining whether to approve an exemption, the Department shall consider the quantity of casinghead gas produced, the topographical and climatological features at the well site, and the proximity of agricultural structures and crops, inhabited structures, public buildings, and public roads and railways.

- e) If Hydrogen Sulfide gas (H₂S) is present in excess of 20 ppm within ~~five~~-t 5t feet in any direction from the wellhead or the end of the flare line, the Department shall specify measures to be taken by the permittee to protect against waste and injury to the public health and safety, which may include the erection of flare lines, the posting of warning signs, and the erection of fencing. The Department may also require the setting of a temporary mechanical or cement plug during any period of time in which the well is not producing or during any period of time necessary to effectuate safety measures. In specifying the measures to be taken by the permittee, the Department shall consider the quantities of H₂S being emitted, the topographical and climatological features at the well site and the proximity of inhabited structures, public buildings, and public roads and railways.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 240.640 Reporting Requirements

a) Well Completion Reports

1) Contents

The Well Completion Report shall be completed on a form prescribed by the Department and shall contain:

- A) the name and location of the well;
- B) information on the construction of the well;
- C) information on the producing zones and the type of completion treatment performed on each zone; and
- D) initial production rates.

2) Newly drilled wells

A Well Completion Report shall be submitted to the Department within ~~thirty~~-30 days after the conclusion of initial completion activities (i.e., production testing or date of first production) or within ~~thirty~~-30 days after the expiration of the permit if the well was not drilled.

3) Existing wells

A Well Completion Report shall be completed and submitted to the Department for each workover or recompletion of any existing production well or conversion to a production well which results in a change of the original well construction or zone of production. The Well Completion Report shall be submitted within ~~thirty~~-30 days after the completion of any such workover, or recompletion or conversion activity. A Well Completion Report is required within 30 days after the expiration of a conversion permit if the well was not converted.

4) Non-productive Wells (Dry Holes)

A Well Completion Report shall be completed and submitted to the Department for each non-productive well or "dry hole". The Well Completion Report shall be submitted within ~~thirty~~-30 days after attempted completion of the non-productive well.

b) Well Drilling Report

1) For all wells drilled or deepened after the effective date of this Section, a Well Drilling Report shall be completed by the permittee on a form prescribed by the Department.

2) The Well Drilling Report shall be submitted to the State Geological Survey in Champaign, Illinois within 90 days after drilling ceases and shall contain:

- A) the name and location of the well;
- B) drilling information;
- C) the geologic names and depths of the formations encountered in drilling the well;
- D) the results of all drill stem tests; and
- E) a copy of the drilling time or geolograph record if a geophysical log was not run unless the well was drilled with air rotary tools.

3) A Well Drilling Report is not required for well conversion not

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entailing deepening of the well.

c) Geophysical Logs

A copy of all open hole wire line or geophysical logs run on a well shall be submitted to the State Geological Survey within 90 days after drilling ceases.

d) Drill Cuttings

1) Notification and Collection of Drill Cuttings

The Department shall notify the permittee when cuttings are required to be collected. Drill cuttings shall be collected for each run drilled in cable tool wells and each ten feet ~~four~~ of distance drilled in rotary or air drilled wells. The permittee shall obtain containers for the cuttings, and deliver the cuttings to the Illinois State Geological Survey in Champaign, Illinois. When cuttings are required, a Drilling Time log shall also be submitted.

2) When Drill Cuttings Required

The Department will require drill cuttings for a newly permitted well when drill cuttings have not previously been submitted for any well within ~~one-half~~-1/2 mile of the newly permitted well. If the newly permitted well is drilled to a depth greater than any other well within ~~one-half~~-1/2 mile for which drill cuttings were submitted, drill cuttings will be required only from the lowest depth previously submitted to the total depth of the newly permitted well.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART G: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section 240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells Drilled After the Effective Date of this Section

a) Surface Casing

1) Steel surface casing shall be set to a depth of at least ~~one hundred~~-100 feet, or ~~fifty~~-50 feet below the base of the fresh water zone, whichever is deeper.

2) Surface casing or alternative surface casing shall be set under the supervision of a representative of the Department and the permittee shall give at least ~~twenty-four~~-24 hours notice to the District Office prior to setting the surface casing.

3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.

4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than ~~four~~-4 hours.

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- 5) At the time of submitting the permit application the permittee may request approval from the Department for one of the following alternative surface casing procedures:

A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b).

B) If the unconsolidated materials is greater than 25 feet thick, surface casing is required to be set to the top of the bedrock, a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b).

C) For wells in which the total depth is less than 250 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

b) Production Casing

Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of ~~two-hundred--fifty--~~ 250 feet above the shallowest permitted injection interval. The casing shall be set no higher than ~~forty--~~ 50 feet above the top of the uppermost permitted injection interval in an open hole completion.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells

a) For purposes of this Section, establishment of Internal Mechanical Integrity includes proper placement of the packer in accordance with subsection (b) below and successful completion of a pressure test in accordance with subsection (f) below.

b) Injection shall be through tubing and packer unless alternative construction methods are approved by the U.S. Environmental Protection Agency. The packer shall be placed no higher than ~~two-hundred--~~ 200 feet above the uppermost perforations or the casing seat in an open hole completion, provided the packer is within the cemented portion of the production casing such that there is at least ~~forty--~~ 50 feet of cement above the packer, and further provided the packer is no less than ~~one-hundred--~~ 100 feet below the base of the fresh water. No

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perforations shall be left open above the packer unless they are isolated by a dual packer or concentric packer system. If a dual packer is used, the uppermost packer must satisfy the placement requirements of this subsection.

c) If the packer cannot be set in accordance with subsection (b) above due to existing well construction or an obstruction in the well, the permittee may request and the Department may specify an alternate packer setting depth provided the packer remains within the cemented portion of the production casing. In determining an alternate packer setting depth the Department shall take into consideration the current construction of the well, the depth of the fresh water and the nature of the obstruction.

d) The permittee shall contact the District Office in which the well is located at least ~~twenty-four--~~ 24 hours prior to the initial setting or any resetting of the packer in a Class II UIC well to enable an inspector to be present when the packer is set. Setting of the packer must be reported on a form prescribed by the Department.

e) An internal mechanical integrity test shall be performed:

- 1) prior to initial injection into a newly permitted Class II UIC well;
- 2) prior to initial injection into a Class II UIC well after a change to a new, permitted injection zone;
- 3) prior to resuming injection into any Class II UIC well after any work over of the well involving the resetting or movement of a packer;

4) prior to initial injection into a Class II UIC well after the well has been reactivated from temporary abandonment status;

5) whenever the Department has reason to believe, based upon well records or field observation, and subject to the provisions of Sections 240.140, 240.150 and 240.170 of this Part, that the Class II UIC well may be leaking or improperly constructed; and

6) at least once every ~~five--~~ 5 years measured from the date of the last successful test unless a temporary abandonment is approved in accordance with Section 240.1130.

f) All Class II UIC wells not subjected to an internal mechanical integrity pressure test as of September 1, 1990 shall be tested by September 1, 1995, unless temporarily abandoned in accordance with Section 240.1130 within 5 years after ~~of~~ the effective date of this Section. During the first ~~four--~~ 4 years, each permittee shall conduct an internal mechanical integrity test each year commencing September 1 on at least 20% of the permittee's total Class II UIC wells of record as of September 1 as reported to each permittee by the Department. During the fifth year each permittee shall conduct an internal mechanical integrity test on all remaining untested Class II UIC wells that are of record September 1, 1994 or are acquired during the year ending September 1, 1995. Class II UIC wells sold or acquired during the first ~~4~~ four years shall not affect the total number of wells from which the 20% testing requirement is derived for

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that year. Wells tested during the year in which they are transferred shall count toward the 20% testing requirement of the permittee who conducted the test. Class II UIC wells temporarily abandoned, converted to production wells or plugged in accordance with the provisions of Subpart K during any year shall count toward the 20% testing requirement.

g) Pressure Test:

The following pressure test shall be performed on Class II UIC wells to establish the internal mechanical integrity of the tubing, casing and packer of the well. The permittee shall contact the District Office in which the well is located at least ~~twenty-four~~ 24 hours prior to conducting a pressure test to enable an inspector to be present when the test is done. The permittee shall report the test results on a form prescribed by the Department.

1) Pressure Test

The casing-tubing annulus above the packer shall be tested under the supervision of the Department at a minimum pressure differential between the tubing and the annulus of 50 PSIG for a period of 30 minutes. In addition, the casing-tubing annulus starting test pressure shall not be less than 300 PSIG and may vary no more than five-~~t~~ 5 percent of the starting test pressure during the test. The well may be operating or shut in during the test.

2) Monitoring Test

For those wells which are structurally unable to withstand the pressure test specified in subsection (d)(1) above because the packer would unseat, but not because the well is improperly constructed, the permittee may make application to perform a monitoring test in lieu of the pressure test on forms prescribed by the Department. An approved monitoring test will consist of pressuring the annulus to a specified pressure no less than 50 PSIG and monitoring the positive annular pressure over a specified period of time. In determining whether to approve a monitoring test, and in establishing the test parameters (i.e., positive annulus pressure, tubing injection pressure, injection rate, monitoring method and length and frequency of monitoring), the Department shall consider well construction including:

- A) the volume of the casing-tubing annulus;
 - B) depth of packer;
 - C) pressure below the packer; and
 - D) type of tubing and packer.
- h) Any Class II UIC well which fails an internal mechanical integrity test, or on which an internal mechanical integrity test has not been performed when required by subsection (d) and (e) above, shall be shut in until the well is plugged or until remedial work is completed and an internal mechanical integrity test is successfully completed. If the necessary work has not been completed and an internal mechanical integrity test successfully completed within ninety-~~t~~ 90 days (or

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within any greater length of time established by the Department due to weather conditions), the well shall be temporarily abandoned in accordance with Section 240.1130(d) of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.780 Reporting Requirements for Class II UIC Wells

a) Well Completion Reports

1) Contents

The Well Completion Report shall be completed on a form prescribed by the Department and shall contain:

- A) the name and location of the well;
- B) information on the construction of the well;
- C) information on the injection zones and the type of completion treatment performed on each zone; and
- D) injection rates and pressures.

2) Newly drilled or converted wells

A Well Completion Report shall be submitted to the Department within ~~thirty~~ 30 days after the conclusion of initial completion activities (i.e., setting of tubing and packer) or within ~~thirty~~ 30 days after the expiration of the permit if the well was not drilled or converted.

3) Existing wells

A Well Completion Report shall be completed and submitted to the Department for each recompletion of any existing injection well. Recompletion includes injection into a zone not previously used for injection in the well. The Well Completion Report shall be submitted within ~~thirty~~ 30 days after the completion of any such workover or recompletion activity.

b) Well Drilling Report

1) For all wells drilled or deepened after the effective date of this Section, a Well Drilling Report shall be completed by the permittee on a form prescribed by the Department.

2) The Well Drilling Report shall be submitted to the State Geological Survey within 90 days after drilling ceases and shall contain:

- A) the name and location of the well;
 - B) drilling information;
 - C) the geologic names and depths of the formations encountered in drilling the well;
 - D) the results of all drill stem tests; and
 - E) a copy of the drilling time or geolograph record if a geophysical log was not run, unless the well is drilled with air rotary tools.
- 3) Well Drilling Reports are not required for well conversions not entailing a deepening of the well.

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- c) Geophysical Logs
A copy of all open hole wire line or geophysical logs run on the well shall be submitted to the State Geological Survey within 90 days after drilling ceases, or in the case of a conversion of an existing well only if the well is deepened, ~~7-after-the-completion-of-conversion~~ activities.

d) Drill Cuttings

- 1) Notification and Collection of Drill Cuttings
The Department shall notify the permittee when cuttings are required to be collected. Drill cuttings shall be collected for each run drilled in cable tool wells and each ~~ten-~~ 10' feet of distance drilled in rotary or air drilled wells. The permittee shall obtain containers for the cuttings, and deliver the cuttings to the Illinois State Geological Survey in Champaign, Illinois. When cuttings are required, a Drilling Time log shall also be submitted.

2) When Drill Cuttings Required

Drill cuttings shall be submitted for each well when drill cuttings have not previously been submitted from any well within ~~one-half-~~ 1/2 mile of the newly permitted well. If the newly permitted well is drilled to a depth greater than any other well within ~~one-half-~~ 1/2 mile, drill cuttings shall be requested from the approximate previously submitted depth to the total depth in the newly permitted well.

e) Annual Well Status Report

The permittee of each Class II UIC well shall file an Annual Well Status Report on forms prescribed by the Department. The report shall be filed by May 1 of each year for the preceding calendar year for all wells which have not received Department approval for temporary abandonment or been plugged by the end of the reporting year, and shall include:

- 1) the name and location of the well;
- 2) the names of all injection intervals;
- 3) the setting depth of the packer; and
- 4) the average monthly injection rates and pressures.

f) Annual Enhanced Oil Recovery Project Report

The operator of an enhanced oil recovery project shall complete an annual project report on forms prescribed by the Department and submit the report to the State Geological Survey by May 1 of each year.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART H: LEASE OPERATING REQUIREMENTS

Section 240.860 Pits

- a) "pit", as used in this Section, is a synthetic lined or unlined

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earthen surface impoundment, whether a man-made excavation or a diked area which was or currently is used for temporary storage of liquid oil field waste or produced water prior to disposal.

- b) Construction of pits other than those specified in Subparts E and K of this Part is prohibited.

- c) All pits in existence on May 13, 1994 shall be closed, in accordance with subsection (e) below, by July 1, 1995 as follows, unless covered by subsection (d) below, or exempted for continued use in accordance with Section 240.861 of this Part: or for an alternative use in accordance with Section 240.862.

- 1) All pits without synthetic liners shall be restored in accordance with subsection (d) below.

- 2) Unpermitted synthetic-lined pits shall be restored in accordance with subsection (d) below.

- 3) Pits with leaking or torn liners shall be restored in accordance with subsection (d) below.

- 4) Permitted synthetic-lined pits that are not torn or leaking shall be restored in accordance with subsection (d) below within five years from the Department's pit permit date.

- d) Synthetic lined pits, permitted after May 12, 1989 and before May 13, 1994, more than five years ago shall be restored in accordance with subsection (e) within 5 years after the permit was issued (d).

- e) Pits shall be restored as follows:

- 1) All liquid oilfield waste shall be removed and disposed of in a Class II UIC well.

- 2) Crude oil bottom sediments shall be disposed of in accordance with Section 240.940(a) and (b).

- 3) For pits required to be closed by July 1, 1995 and not exempted in accordance with Section 240.861, the pit residue and liner, if any, shall either be:

- A) removed from the site and disposed of at an Illinois Environmental Protection Agency permitted non-hazardous special waste landfill, provided that pit residue or liner containing NORM with radioactivity levels exceeding background may be required to be disposed of at a waste facility permitted by the Illinois Department of Nuclear Safety; or

- B) consolidated from the sides to the bottom of the pit and covered in place with a clay or synthetic liner sufficient to impede the infiltration of surface water and placed at least five- 5' feet below the ground surface. The pit shall be backfilled and the pit residue covered with 5' of soil having a radioactivity level at or below background level with the upper most 18" consisting of clean soil not contaminated by oilfield brine or crude oil. The backfilled area shall be graded to promote runoff with no depressions that would accumulate or pond water on the surface. The stability of the backfilled pit shall be compatible with the

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adjacent land use. The surface area over the backfilled pit area shall be stabilized to prevent erosion.

- C) The Department shall prepare an inventory identifying, by county, all closed and unclosed liquid oilfield waste or produced water storage pits. The Department shall file such notice in the county clerk's office in the county in which such pits are located. The notice shall specify the location of the pit, generally identify the nature of the materials buried and, if known, specify the radioactivity level of the material buried. If the radioactivity is not known, the notice shall specify that the buried oil and gas waste may contain Naturally Occurring Radioactive Material (NORM).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.861 Existing Pit Exemption For Continued Production Use

- a) Any pit in existence on May 13, 1994, does not have to be closed in accordance with Section 240.860(c) of this Part if presently constructed or will be reconstructed by July 1, 1995 as follows:

- 1) The pit must be lined with a synthetic flexible liner that is compatible with the produced fluid and has a coefficient of permeability of no greater than 1×10^{-7} cm/sec and shall be at least 30 mils in thickness. Adjoining sections of liners must be sealed together in accordance with the manufacturer's specifications; and
- 2) The pit must be underlined by a gravel sub-base, at least 4" in thickness, in which slotted or perforated PVC pipe has been placed in order to provide for under pit drainage. This drainage system must be constructed to allow monitoring and sampling of fluid drainage from underneath the pit.

- b) All pits shall be permitted prior to reconstruction on a form prescribed by the Department which shall include the following:

- 1) A map drawn to scale showing the location of the pit relative to the lease boundaries, potable water wells and surface drainage located within 1/4 mile of the existing pit.
- 2) An engineering diagram of the construction specifications of the pit.

- 3) Soil types in the area of the pit.

- 4) Chemical analysis of produced water to be temporarily stored in the pit, showing TDS and chlorides.

- 5) A description of the method for disposal of the produced water or liquid oilfield waste temporarily stored in the pit.

- c) All existing pits shall be in compliance with the following:

- 1) Surface water drainage shall be diverted away from the pit.
- 2) Pit contents shall not be discharged onto the surrounding land

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surface or into a stream or other body of water unless a permit has been obtained from the Illinois Environmental Protection Agency ("IEPA").

- 3) The pit permit number and the name of the permittee must be posted at the pit location in a legible and visible manner.

- 4) All pits shall be covered with bird netting or other systems designed to keep birds and flying mammals from landing in the pit.

- d) All existing pits covered by this Section shall sample, quarterly, the fluid drainage from beneath the pit. The sample shall be analyzed for chlorides by an "independent testing" facility. The results of the analysis shall be maintained at the facility offices, for review upon request, by the Department.

- e) If the fluid analysis indicates a leak is present, the Department shall be notified within five-~~6~~ 5 days and the contents of the pit shall be emptied and properly disposed of ~~drained~~ and the pit liner repaired.

- f) All existing pits covered by this Section shall be subject to inspection by a Department well inspector. If requested at the time of the inspection, the pit shall be emptied in order to examine the integrity of the structure. The Department may order any remedial work it deems necessary to ensure compliance with Department regulations.

- g) Pit Abandonment and Restoration

- 1) Prior to liner removal and burial of the pit:
 - A) All liquid oilfield waste shall be removed and disposed of in a Class II UIC well.

- B) Crude oil bottom sediments shall be disposed of in accordance with Section 240.940(a) and (b) of this Part.

- C) Pit residue shall be removed from the site and disposed of at an IEPA permitted non-hazardous special waste landfill provided that pit residue containing NORM with radioactivity levels exceeding background may be required to be disposed of at a waste facility permitted by the Illinois Department of Nuclear Safety.

- 2) The liner must be completely removed from the site and disposed of at a nonhazardous special waste facility permitted by the IEPA. The surface area shall be leveled and pit filled in such manner as to prevent the ponding of water and erosion and allow the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.862 Existing Pit Exemption For Alternative Use

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- a) Any pit in existence on May 13, 1994 may not have to be closed in accordance with Section 240.860(c) of this Part if:
- 1) the pit is no longer used for temporary storage of produced water or other liquid oilfield waste;
 - 2) the water quality in the pit is less than 5000 TDS with no visible sheen of oil; and
 - 3) a written, notarized authorization from the current surface owner has been received by the Department requesting the pit not be closed and demonstrating an acceptable alternative use for the pit.
- b) In determining not to require the pit be closed, the Department shall:
- 1) review the current location of the pit relative to any ongoing production operations in the area; and
 - 2) review the proposed alternative use relative to public health and safety considerations and potential use for agricultural, recreational or wildlife habitat purposes.
- c) If the Department determines, based on a review of the information submitted by the permittee and surface owner, the pit is not exempted, the pit shall be closed, within 6 months, by the permittee, in accordance with Section 240.860(d).

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 240.890 Crude Oil Spill Clean-Up Requirements

- a) All crude oil spills, which occur after November 8, 1993, regardless of amount, from wells, flowlines, tanks, concrete storage structures, pits or containment dikes, shall as soon as practicable be contained using earthen dikes, booms and other containment measures to minimize the amount of area affected by the spill.
- b) Impounded free oil shall be picked up and put in lease storage tanks or removed from the site.
- c) Remaining oil on the land surface shall be removed using absorbent material, which shall be disposed in accordance with Section 240.891 of this Part.
- d) Contaminated soil shall be remediated in accordance with Section 240.891(a) or if required to be removed in accordance with subsection (g) below shall be disposed of in accordance with Section 240.89(b). In determining whether the Department will require additional remedial cleanup action to be taken by the permittee which may include flushing of the area with fresh water, the addition of organic material (e.g., peat moss, straw), additional chemical treatment and diking of the soil, the following factors shall be taken into consideration based on information provided by the permittee upon the Department's request.
- e) If a spill leaves the immediate lease area and enters a public road ditch, visible oil-contaminated soil shall be removed from the

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- roadside ditch, spread over the area affected by the spill and incorporated in accordance with Section 240.891(c) of this Part.
- f) If a spill enters surface waters, the spill shall be contained with booms and/or underflow dams and removed as expeditiously as possible. If it is determined that burning the oil-affected area will prevent further contamination of the surface waters, an emergency burn permit shall be sought from the IEPA, in accordance with Section 240.891 of this Part.
- g) In determining whether the Department will require additional remedial cleanup action to be taken by the permittee, which may include flushing of the area (e.g., stream banks, etc.) with fresh water, the addition of organic material (e.g., peat moss, straw), chemical treatment, additional diking of the soil or soil and absorbent material removal if the soil and/or absorbent material within the spill area cannot meet the TPH standard specified in Section 240.891(a)(1)(C), the following factors shall be taken into consideration based on information provided by the permittee upon the Department's request:
- 1) the aerial extent of the spill;
 - 2) the proximity of surface waters, fresh waters or surface drainage ways;
 - 3) the type of soil and current land use; and
 - 4) the total petroleum hydrocarbon (TPH) content in the spill area.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.891 Crude Oil Spill Waste Disposal and Remediation

- a) On Site Remediation Disposal of Contaminated Soil
- 1) The soil affected by a spill shall be at a minimum:
 - A) fertilized with 5 pounds of 12-12-12 fertilizer or an amount of other fertilizer sufficient to treat the soil with 0.25 lbs of nitrogen per 100 square feet of affected area;
 - B) lined with at least 50 lbs of agricultural grade lime per 100 square feet of affected area in order to maintain a pH of between 6-8; if the pH of the soil/oil mixture is less than 6, additional lime shall be incorporated to increase pH above 6;
 - C) tilled to a depth of at least four (4) inches but no greater than twelve (12) inches to create a soil and crude oil mixture which is less than 5% total petroleum hydrocarbon (TPH) as determined using Environmental Protection Agency Method 418.1;
 - D) watered to maintain soil moisture sufficient to promote plant growth (if extremely dry soil conditions exist); and
 - E) stabilized to minimize erosion and run-off of stormwater.
 - 2) If the soil in the affected area is frozen or previously

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saturated due to rain or snow melt, prohibiting compliance with subsections (a)(1)(A) through (D) above, the permittee shall stabilize the area to prevent any surface run-off from leaving the affected area until conditions permit compliance with subsections (a)(1)(A) through (D) above.

3) The soil affected by the spill may be required to be tested by the Department one year later using Environmental Protection Agency Method 418.1. The soil and crude oil mixture must be less than 1% total petroleum hydrocarbon (TPH).

b) Contaminated soils removed from the site for off-site disposal shall be disposed of at an Environmental Protection Agency permitted special waste landfill, waste treatment or disposal facility.

c) Contaminated Absorbent Materials

1) Off-site disposal

All non-organic/non-biodegradable absorbent materials and all organic/biodegradable materials in excess of five-hundred-t 500+ cubic feet shall be disposed of at an Environmental Protection Agency permitted non-hazardous special waste landfill, waste treatment or disposal facility. Organic/biodegradable materials amounting to less than five-hundred-t 500+ cubic feet may be disposed of at a permitted non-hazardous special waste landfill or disposed of in accordance with subsection (c)(2)(B) below.

2) On-site disposal

A) On-site disposal of non-organic/non-biodegradable absorbent materials is prohibited. These materials must be removed in accordance with subsection (b)(1) above.

B) On-site disposal of less than five-hundred-t 500+ cubic feet of organic/biodegradable absorbent materials through landspreading over the area affected by the spill is permitted if it involves only materials generated at the site.

C) Landspreading of absorbent materials shall be subject to the provisions of Section 240.890(g) and subsection (a) of this Section, comply-with-subsection-(a)-above.

d) Emergency Burning

1) Open burning of spilled crude oil and/or absorbent-material is permitted when imminent weather conditions threaten to further contaminate surface waters or immediate collection for disposal is impractical.

2) Burning shall only be permitted when conditions will not cause the burn to affect nearby residences or the visibility on nearby roads.

3) Approval must be received from the Illinois Environmental Protection Agency prior to the emergency burn, and appropriately designated Illinois Department of Mines and Minerals personnel must be on the scene throughout the burn.

4) The local fire department shall be notified, if the burn is near a town or city.

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5) A report must be filed with the Illinois Environmental Protection Agency within ~~ten-~~ 10+ days after the burn, indicating:

- A) the place and time of the burn;
- B) the quantity burned;
- C) meteorological conditions; and
- D) the reason the emergency burn was necessary.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.895 Produced Water Spill Clean-Up Requirements

a) All spills of produced water, which occur after November 8, 1993, from wells, flowlines, pits, concrete storage structures, tanks or containment dikes, shall as soon as practicable be contained using earthen dikes and other containment measures to minimize the amount of area affected by the spill.

b) All impounded produced water shall be picked up and removed from the site for disposal into a Class II UIC well. The area shall then be immediately flushed with fresh water in an amount equal to the spill.

c) In determining whether the Department will require additional remedial cleanup action to be taken by the permittee, which may include flushing of the area with fresh water, the addition of organic material (e.g., peat moss, straw), additional chemical treatment and diskings the soil or soil removal, the following factors shall be taken into consideration based on information provided by the permittee upon the Department's request:

- 1) the quantity and areal extent of the spill;
- 2) the nature ~~content~~ of the soil;
- 3) the flow capacity of affected surface waters waterways;
- 4) the public safety; and
- 5) the proximity of ~~domestic-or--livestock~~ fresh waters water supplies, surface waters, and surface drainage ways.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART I: LIQUID OILFIELD ~~GBS-FIBSB~~ WASTE AND SPILL RELATED WASTE HANDLING AND DISPOSAL

Section 240.900 Definitions

For the purpose of this Subpart the term:

"Liquid Oilfield Waste Transportation System" means all trucks and other motor vehicles used to gather, handle or transport liquid oilfield waste from the point of any surface on-site collection to any subsequent off-site storage, utilization or disposal. [225 ILCS

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"System Facility" means any location other than the point of surface on-site collection or off-site disposal of liquid oilfield waste, where liquid oilfield waste is temporarily handled or stored prior to disposal.

"Vehicle" means a tank used to transport or carry liquid oil field waste whether motorized or not motorized.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 240.906 Application for a Liquid Oilfield Waste Transportation Vehicle Permit

a) ~~Vehicle" means--a--tank--used--to--transport--or--carry--liquid--oilfield waste--whether--motorized--or--not--motorized--~~

ab) Each liquid oilfield waste transportation vehicle (tank) requires a permit from the Department and shall not be operated until such permit is obtained.

be) Application for a vehicle permit under this Section shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the non-refundable vehicle permit fee of \$100-00 for each vehicle (tank).

cd) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to process the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within ~~sixty~~ 60 days following the date of notification.

de) The application shall include:

1) The name and system permit number of the liquid oilfield waste transportation system under which this vehicle (tank) will be operated.

2) A description of the construction of the tank, valve, and associated piping (including materials each is made of), capacity of tank and manufacturers serial number or other vehicle (tank) identifying number.

ef) The application for a vehicle (tank) permit shall be signed by the holder of the liquid oilfield waste transportation system permit under which the vehicle (tank) will operate.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 240.926 Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements

a) All liquid oilfield waste hauling vehicles (tanks) and associated piping and valves must be kept in leak free condition. Any person who gathers, handles, transports, or disposes of liquid oilfield waste without a liquid oilfield waste transportation permit or utilizes the services of an unpermitted person shall upon conviction thereof by a court of competent jurisdiction be fined not less than \$2,000 for a violation and costs of prosecution, and in default of payment of fine and costs, imprisoned for not less than 10 days nor more than 30 days. When the violation is of a continuing nature, each day upon which a violation occurs is a separate offense. [225 ILCS 725/8c]

b) Liquid Oilfield Waste Haulers shall only dispose of liquid oilfield waste in accordance with Subparts E and I. Liquid oilfield waste shall not be released on the ground surface or into any fresh water or water drainage-way.

c) All liquid oilfield waste temporarily stored at a system facility shall be contained in tanks in accordance with Section 240.810 of this Part or concrete storage structures in accordance with Section 240.850 of this Part.

d) Liquid oilfield waste shall not be commingled or blended with non-exempt waste under Subtitle C of the Federal Resource Conservation and Recovery Act of 1976.

e) No person shall engage, employ or contract with any other person except a Liquid Oilfield Waste Hauler to transport liquid oilfield waste.

f) The Department may revoke a Liquid Oilfield Waste Transportation or Vehicle Permit if:

1) The permittee fails to meet permit conditions;

2) the applicant has falsified or otherwise misstated any information on or relative to the permit application;

3) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;

4) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department;

or

5) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department. [225 ILCS 725/8a]

g) Failure to comply with provisions of the Act may result in forfeiture of the Liquid Oilfield Waste Transportation bond in accordance with Section 240.1530(b) through (g) of this Part and may be fined not less than \$2,000 for a violation and costs of prosecution, and in default of payment of fine and costs, imprisoned for not less than 10 days nor more than 30 days. [225 ILCS 725/8c]

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(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART K: PLUGGING OF WELLS

Section 240.1110 Definitions

For the purpose of this Subpart, the term:

"Cased Well" means a well in which production casing has been set.

"Cement" means class A neat cement with a minimum weight of 14.5 fifteen--and--six--tenths--(15.6) pounds per gallon, unless the cement contains additives which improve the ability of the cement to provide necessary protection and which maintains a minimum compressive strength of 500 PSI after 72 hours.

"Circulation Method" means placement of cement used in plugging a well by circulating cement through a pipe set at a specified depth in the well.

"Dump Bailer Method" means placement of cement used in plugging a well by using a dump bailer on a wire line.

"Inactive Well" means a well that has ceased operation for a period of up to twenty-four-(24) consecutive months.

"Mud" means a drilling mud with a minimum Marsh Funnel viscosity of forty-five-(45) seconds. Mud may contain water (fresh or brine), Bentonite, Attapulgite or other additives if they do not reduce the viscosity below forty-five-(45) seconds.

"Plugging Fluid Waste" means plugging fluids, including cement, that are generated from the well during plugging activities.

"Producing Lease or Unit" means a lease or waterflood/enhanced oil recovery unit which has produced and sold oil within the preceding 12 month period.

"Uncased Well" means a well in which production casing has not been set.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1130 Plugging or Temporary Abandonment of Inactive Wells and Certain Class II UIC Wells

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- a) Any inactive well which has not been in operation for 24 consecutive months shall be deemed abandoned, in accordance with Section 240.1600(c) of this Part, and plugged in accordance with Section 240.1140 of this Part unless the well has been temporarily abandoned in accordance with subsection (d) below.
- b) Any Class II UIC well(s) without tubing and packer shall be plugged in accordance with Section 240.1140 of this Part unless the well has been temporarily abandoned in accordance with subsection (d) below.
- c) The permittee may request temporary abandonment status by making written application on forms provided by the Department. The Department shall place the well on temporary abandonment status and issue a Future Use Permit, if the well meets the following conditions (which shall be continuing requirements):
 - 1) The well shall have proper bond in effect in accordance with the Act, the permittee must not be delinquent in payment of any annual well fee assessment.
 - 2) The well shall have an intact leak free wellhead or be capped with a valve, and configured to monitor casing or annual pressure.
 - 3) If the well is an injection well, all injection lines shall be disconnected at the well.
 - 4) If the well is a permitted gas well and the well has a sustained gas pressure at the surface, the requirements of subsection (c)(6) and (7) below do not apply.
 - 5) The wellhead shall be above ground level.
 - 6) The fluid level is no higher than one-hundred-(100) feet below the base of the fresh water as evidenced by an annual fluid level test conducted by the permittee after notice to and under the supervision of the Department, using acoustical or wire line measuring methods. If the Department authorizes the permittee to conduct an annual fluid level test without the presence of a well inspector, the permittee shall report the annual fluid level test on a form prescribed by the Department. The fluid level test shall be conducted annually during the period of temporary abandonment unless the permittee elects to satisfy the requirements of subsection (C)(7)(B) or (C) below.
- 7) If the fluid level, as tested, is higher than one-hundred-(100) feet below the base of the fresh water, the permittee, under the supervision of the Department, shall:
 - A) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the casing, but no less than 100 feet below the base of the fresh water, remove any fluid to a level at least 100 feet below the base of the fresh water zone, and monitor the fluid level annually in accordance with subsection (C)(6) above; or
 - B) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the casing, but no less than 100 feet below the base of the fresh water,

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and pressure test the casing by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes at least once every five--t 5+ years during any period of temporary abandonment; or

C) install tubing and set a packer in accordance with the requirements of Section 240.740, and conduct and pass an internal mechanical integrity test in accordance with Section 240.760 of this Part.

d) If a Future Use temporary-abandonment request is denied, the permittee shall, within ninety-t 90+ days, plug the well or secure a Future Use Permit temporary-abandonment-status.

e) Future Use status shall not be extended beyond the initial 5 year period for a Class II UIC well. ~~temporary-abandonment-status-shall-be granted-for-a-five-(5)-year-period--After-the-expiration-of-the-five (5)-year-period-temporary-abandonment-status-shall-be-granted-on-an annual-basis---temporary-abandonment-status-shall-not-be-extended-or renewed-for-a-Class--II--UIC--well-unless--the--well-is-tested-in accordance-with-Section-240-760-of-this-Part.~~

f) Future Use status shall be granted for an initial 5 year period. After the expiration of the initial 5 year period, Future Use status for production wells may be extended on an annual basis in accordance with Section 240.1131. At the end of the initial 5 year period the well shall be plugged in accordance with Subpart K of this Part, successfully tested in accordance with subsection (c)(7)(B) above or Section 240.760 of this Part, or converted to a production well by removing the tubing and packer and permitting the well in accordance with subsection (b) above. If the Class II well is part of a gas storage field, the well may be converted to an observation well and permitted in accordance with Subpart R of this Part. ~~A-temporarily abandoned-well-shall-not--be--operated-until--it--is--reactivated--by notifying--the--Department-on-a-form-prescribed-by-the-Department---in addition--if-the-well-is-an-injection-or-disposal-well--the-well-shall not-be-reactivated-until-tubing-and-packer--is--set--and--an--internal mechanical-integrity-test-is-passed-in-accordance-with-Section-240-760 of-this-Part.~~

g) Future Use status shall not be terminated until the well is active for a period of one year and a Future Use termination request is approved by the Department. Future Use termination requests shall be on a form prescribed by the Department and shall be accompanied by evidence of the sale of oil or natural gas during the preceding 12 month period.

h) Injection or disposal wells shall not be reactivated until tubing and packer is set and an internal mechanical integrity test is passed in accordance with Section 240.760 of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1131 Extension of Future Use Status

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a) The permittee of wells on Future Use status, which are located in a producing unit or on a producing lease, will be granted, upon request, an annual extension of Future Use status provided the well remains in compliance with Section 240.1130(c) and the lease or unit remains in production.

b) Wells located in a non-producing unit or on a non-producing lease shall require submission by the permittee and review by the Department of the following information prior to extension of Future Use status:

- 1) Cumulative production from the well;
- 2) Production records for the past 5 years;
- 3) Estimated remaining reserves with supporting documentation and a description of the reservoir geology; and
- 4) Future plans for the well.

c) Wells not approved for extension of Future Use status shall be plugged within 6 months from the date of denial unless the permittee requests a hearing in accordance with subsection (d) below.

d) A permittee may request a hearing to challenge a Future Use extension denial if such hearing is requested in writing within 30 days after the date of the denial of the Future Use extension notice. All requests for hearing must be accompanied by documents evidencing basis for objection. If no hearing is requested in this time period, the Future Use extension denial shall be a final administrative decision of the Department and the well shall be plugged in accordance with subsection (c) above. If a hearing is requested by the permittee:

- 1) A pre-hearing conference shall be held within 15 days after the receipt of the request for hearing.

A) A pre-hearing conference shall be scheduled in order to:

- i) Simplify the factual and legal issues presented by the hearing request;
- ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;
- iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;

iv) Set a hearing date; and

v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.

2) All hearings under Subpart N of this Part shall be conducted by a non-Departmental hearing officer and shall be held in the Department's offices located in Springfield, Illinois.

e) At the Future Use denial hearing, the Department shall present evidence in support of its determination under subsection (d) above. The permittee may present evidence contesting the Department's determination under subsection (d) above. The hearing officer may administer oaths and affirmations, subpoena witnesses and written of

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printed materials, compel attendance of witnesses or production of materials, compel discovery, and take evidence.

f) Within 30 days after the close of the record for the Future Use denial hearing, the hearing officer shall issue a final administrative decision, pursuant to Section 10 of the Act.

g) The person's or permittee's failure to request a hearing in accordance with subsection (d) above shall constitute a waiver of all legal rights to contest the Future Use denial decision. Within 30 days after the close of the hearing record or expiration of the time to request a hearing, the hearing officer shall issue a final administrative decision, pursuant to Section 10 of the Act.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART N: TRANSFER OF PERMIT

Section 240.1410 Applicability

a) The provisions of this Subpart apply to all assignments, transfers (whether voluntary or involuntary) and sales of the interest of the individual or entity required to hold and to whom the permit is issued (permittee) (permittee), including:

- 1) a change of ownership of the right to drill and/or produce said wells ~~well(s)~~, along with the full rights and responsibilities for operating the wells ~~well(s)~~ in accordance with the Act and the obligation to ultimately plug said wells ~~well(s)~~ through assignment, voluntary release, corporate or other business takeover, buyout, merger or similar transaction, involuntary termination of lease rights by court order, new base lease, sale, gift, devise or other transfer; or
- 2) a change in the designation of the operator or manager under an operating or other similar agreement in which the owner of the right to drill and/or produce said wells ~~well(s)~~, along with the full rights and responsibilities for operating the wells ~~well(s)~~ in accordance with the Act and the obligation to ultimately plug said wells ~~well(s)~~ assigns that right; or
- 3) pursuant to the action of the owners of separate interests who designate an owner to be Permittee; or
- 4) the appointment, by a court of competent jurisdiction, of a trustee or a receiver to exercise custody and control over the well or wells, including the right to drill and/or produce said wells along with the full right and responsibilities for operating the wells.

b) The provisions of this Subpart shall not apply to the assignment, transfer or sale of royalty, overriding royalty or fractional working interests not affecting the rights or responsibilities of the permittee.

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c) The provision of this Subpart shall also apply to administrative record correction transfers initiated by the Department in which the Department transfers the permit to a well to the person who is required to be the permittee for that well under the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1450 Authority of Persons Signing Notification

a) The notification shall be signed by the current permittee and the new permittee, or by individuals authorized to sign for them.

b) If the current permittee or new permittee is an individual, the notification shall be signed by the individual. If the current permittee or new permittee is a partnership, the notification shall be signed by a general partner. If the current permittee or new permittee is a corporation, the notification shall be signed by an officer of the corporation.

c) In lieu of the signatures of the current and new permittees or such authorized persons, the notification may be signed by a person having a power of attorney to sign for a permittee or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the notification.

d) The new permittee may also submit a court order or other documents evidencing his ownership of the lease or unit to be transferred in the event that the current permittee cannot be located or refuses to sign the notification of transfer form.

e) The current permittee may submit documentation the assignment or other conveyance signed by both parties evidencing his transfer of the ownership of the lease or unit in the event the new permittee refuses to sign the notification of transfer form.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1460 Other Conditions for and Effect of Transfer

a) No permit shall be transferred to a new permittee where:

- 1) the applicant has falsified or otherwise misstated any information on or relative to the permit application; who is delinquent in the payment of fees assessed under Section 19-7 of the Act;
- 2) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
- 3) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department; or

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- 4) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department [225 ILCS 725/8a];
- 5) funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P of this Part, for which the new permittee was a previous permittee or the new permittee was an officer, director, partner or person with an interest exceeding 5% in a permittee for which funds were obligated; or on account of whom any amounts have been obligated from the Plugging and Restoration Fund--that--have--not--been reimbursed; or
- 6) the new permittee is delinquent in the payment of Annual Well Fees or is an officer, director, partner or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees. Against whom the Department has issued a final administrative decision that has not been abated or satisfied;
- b) When the requirements of this Subpart have been satisfied, and subject to subsections (d) and (e) below, the Department shall render permit transfer decisions based upon the manner in which the new permittee came into possession of the wells sought to be transferred. Specifically:
- 1) a new permittee who is the mineral owner:
 - a) if the new permittee owns the mineral rights to the tract of land on which production or injection wells subject to a prior lease are located and came into possession of the right to operate such wells by virtue of a voluntary release or involuntary termination of lease rights by court order, this new permittee shall become responsible for all regulatory requirements relative to:
 - A) each production well identified in the new permittee's permit transfer application;
 - B) all wells in existence within the prior lease if the new permittee seeks to operate any of the injection wells located within this leasehold, convert any production well to an injection well or drill a new injection well; and
 - C) all pits, concrete storage structures, tank batteries and other surface production facilities in existence within the lease boundaries.
 - 2) the new permittee is a new base lessee:
 - a) if the new permittee came into possession of the right to operate wells by virtue of a new base lease, this new permittee shall become responsible for all regulatory requirements relative to the wells identified within the lease document except that:
 - A) if the new permittee shall only also become responsible for all regulatory requirements relative to the wells identified on within the notification of transfer form submitted in accordance with Section 240.1430 of this Part; and

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- B) if the new base lease conveys the right to produce from all formations, and the new base lessee permits or operates any injection well located within the tract of land being leased, converts any production well to an injection well or drills a new injection well within this area, this new permittee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in existence within such tract of land and all wells producing from or open to the formation into which injection will occur; or
- C) if the new base lease conveys the right to produce from specified formations only, and the new base lessee permits or operates any injection well located within the formations specified in the new base lease, converts any production well to an injection well or drills a new injection well to the specified formations, this new permittee shall become responsible for all regulatory requirements relative to all wells drilled to the same formation as the injection well, and all concrete storage structures, pits and tank batteries in existence relative to that formation.
- 3) a new permittee who is an assignee:
 - a) if the new permittee came into possession of the right to operate wells by virtue of a lease assignment or appointment, by a court of competent jurisdiction, as trustee or receiver, in accordance with Section 240.1410(a)(4) of this Part, this new permittee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in existence within the lease hold being assigned.
 - c) If any well, or any lease or other unit associated with the well, is in violation of the Act or this Part ~~rules~~ at the time of the transfer to the new permittee, ~~the~~ the new permittee shall be notified of its the violations and the amount of time allotted by the Department ~~time for abatement.~~ at the time of transfer.
 - d) ~~The current permittee (Seller) is not liable for any violation of the Act caused by the actions of the new permittee (Buyer) during the permit transfer process, after notice is given to the Department by the current permittee of the pending transfer. However, if the transfer is denied by the Department, the current permittee assumes all responsibility for the violations of the Illinois Oil and Gas Act caused by the proposed new permittee. Nothing in this subsection (d) shall affect the contractual rights and obligations of the Seller and Buyer.~~
 - e) ~~The transfer of a permit pursuant to this Subpart shall not affect the rights of the Department, or any obligation or duty of the current permittee arising under the Act and this Part rules. Any cause of action accruing or any action or proceeding had or commenced, whether administrative, civil or criminal, may be instituted or continued without regard to the transfer of the permit in accordance with this~~

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f) A current or new permittee may request a hearing in accordance with Section 240.1490 to challenge a permit transfer.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1470 Revocation of Permit to Transfer Easing--Pulley's--Bond (Repeated)

a) The Department shall revoke a permit to transfer if:

- 1) The transfer was issued in error;
 - 2) The applicant falsified or otherwise misstated any information on or relative to the transfer request;
 - 3) The applicant failed to abate a violation of the Act specified in a final administrative decision of the Department;
 - 4) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department; or
 - 5) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department. [225 ILCS 725/8a]
- b) The Department shall notify the permittee of its intent to revoke a permit transfer effective 30 days from the date of notice unless a hearing is requested in accordance with Section 240.251(c) of this Part.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 240.1480 Administrative Record Correction Transfer

a) The Department may administratively transfer a permit to a person required to be the permittee under the Act when the Department determines, based on its records and documents of title submitted to or collected by the Department, that the current permittee is not an owner of the well as defined in the Act, and:

- 1) the actual sale, assignment, or similar transfer transaction between the parties occurred before September 26, 1991; or
- 2) the transfer was not made by the Department due to a clerical oversight during a previous transfer.

b) The permittee shall pay the required transfer fee for transfers occurring under the provisions of this Section that are dated after September 26, 1991. The permittee must satisfy the requirements of Section 240.1480(c) and (d).

c) Transfers occurring under the provisions of this Section shall not be

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subject to the requirements of Section 240.1460(a) of this Part.
 d) Prior to operating the transferred wells the permittee must provide a bond, if required, in accordance with Section 240.1500(a)(1) and (2).
 e) Upon determination of an Administrative Record Correction Transfer, the Department shall notify the current and new permittees of the transfer which will be effective 30 days from the date of notice unless a hearing is requested in accordance with Section 240.1490 below.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART O: BONDS

Section 240.1500 When Required, Amount and When Released

a) To Drill, Deepen, Convert or Operate an Oil or Gas Well

- 1) A bond, in the amount as herein provided, shall be submitted along with an application to drill, deepen, convert, operate or transfer a production or Class II well if:
 - A) such applicant was not an owner on September 26, 1991 of the right to drill and produce the well or wells in the transfer request in a well-of-record with the Department on September 26, 1991; or
 - B) such applicant was not a permittee of record on September 26, 1991; or
 - C) such applicant has had a bond forfeited or is the subject of an unappealed Department abandoned well Order for non-payment of annual well fees; or
 - D) such applicant was not assessed an annual well fee as of July 1 preceding the application date; or
 - E) such applicant has had funds expended and/or wells plugged on its behalf by the Department using funds from the Plugging and Restoration Fund; or
 - F) such applicant is not an appointed trustee or receiver in accordance with Section 240.1410(a)(4) of this Part.

2) When a bond is required to be filed with the Department to drill, deepen, convert or operate an oil or gas well, the amount of the bond shall be:

- A) \$1,500 for a well less than 2000 feet deep;
- B) \$3,000 for a well 2,000 or more feet deep;
- C) \$25,000 for up to 25 wells of a permittee;
- D) \$50,000 for up to 50 wells of a permittee; or
- E) \$100,000 for all wells of a permittee.

3) A bond submitted pursuant to Section 240.1500(a) shall be released when:

- A) all wells covered by the bond are plugged and restored in accordance with Subpart N of these rules; or

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- B) all wells covered by the bond are transferred in accordance with Subpart N of these rules; or
- C) the permittee has paid assessments to the Department in accordance with Section 19.7 for two-f 2+ consecutive years and such permittee is not in violation of the Act.
- b) To Operate a Liquid Oilfield ~~Oil-Field~~ Waste Transportation System
The amount of bond required to be filed with the Department before a permit is issued authorizing a person to operate a liquid oil field waste system shall be \$10,000. When requested by permittee, bond shall be released when the permittee ceases operation and this system and such permittee's system is not in violation of the Act.
- c) To Drill a Test Hole
The amount of bond required to be filed with the Department before a permit is issued to drill a geological structure, coal or other mineral test hole, or a monitoring well in connection with any activity regulated by the Department shall be \$2500 for each permit ~~hole~~ or a blanket bond of \$25,000 for all permits ~~holes~~. The bond requirements of this Subpart shall not apply to a hole or well drilled on acreage permitted and bonded under the Surface-Mined Land Conservation and Reclamation Act (225 ILCS 715) or the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720). When requested by permittee, bonds shall be released when the hole or holes are plugged and restored in accordance with Section 240.1260 and the permittee is not in violation of the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

Section 240.1600 Definitions

The following definitions are applicable to this Subpart:

"Abandoned Well" means:

A well:

for which the underlying lease has been released in writing by the lessee or has been declared forfeited or invalid by a court order, such order is final and the appeal period has lapsed; and

the lessor states in writing that the lessor has not leased out the oil and gas working interest to any other person and does not intend to so lease, that the lessor does not intend to operate the well, and that the lessor desires that the well be plugged; or

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A well owned by a permittee who has made no payment by November 1 of a current annual well fee assessment; or

A well that has not produced for over two--f 2+ years and has failed to comply with temporary abandonment requirements in accordance with Section 240.1130 of this Part.

"Emergency Project" means an emergency-well-plugging-or emergency well site or crude oil remedial production work-PRP-Project- facility clean up, or crude oil spill remediation, of conditions endangering waters of the U.S. as defined by the Federal Oil Pollution Act of 1990.

"Emergency Remedial Work" means remedial work to repair or contain leaks, as a direct result of a leaking well, from production equipment, pits, or other containment structures of oil or saltwater that are contaminating surface waters, ground waters or are flowing in sufficient quantity to create an increasing area of contamination on the surface of the land.

"Emergency Well Plugging" means the plugging and abandonment of a well or wells that are actively flowing oil or saltwater and are contaminating surface waters, ground waters or flowing in sufficient quantity to create an increasing area of contamination on the surface of the land, or a well leaking natural gas or hydrogen sulfide gas in sufficient quantity to endanger public safety or create a fire hazard or a non-leaking well which poses an imminent danger to public safety.

"Orphaned-Well"--means-a-well-for-which-no-permittee-exists-or-can-be located;-no-bond-exists-and-no-fees-have-been-paid-in-accordance-with Section-19.7-of-the-Illinois-Oil-and-Gas-Act.

"PRF" means the Department's Plugging and Restoration Fund, established under Section 6 of the Illinois Oil and Gas Act.

"Well Site" means the area within the immediate vicinity of the wellhead and the associated lease tanks used for storage of crude oil and saltwater excluding produced water storage pits, concrete storage structures and centralized tank batteries associated with enhanced oil recovery projects.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1610 Plugging Leaking or Abandoned Wells

- a) If the Department finds, upon inspection, that a well drilled for the exploration, development, storage or production of oil or gas, or for injection, salt water disposal, salt water source, observation, and

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geological or structure test, may be abandoned or leaking salt water, oil, gas or other deleterious substances into any fresh water formation or onto the surface of the land, the Department may schedule a hearing pursuant to Section 19.1 of the Act to order the well plugged if abandoned or repaired or plugged if leaking.

b) Hearings

- 1) Notice of Hearing
Whenever the Department holds a hearing pursuant to Section 19.1 of the Act, the Department shall give written notice to the permittee and surface owner personally or by certified mail sent to the permittee's last known address. The notice shall include the date, time, place, nature of the hearing and the name and address of the hearing officer. The notice shall be mailed at least 14 days prior to the scheduled hearing date.
- 2) Right to Counsel, Appearance
 - A) Right to Counsel
Any party may appear and be heard through an attorney at law authorized to practice in the State of Illinois.
 - B) Appearance of Attorney
An attorney appearing in a representative capacity in any proceeding hereunder shall file a written notice of appearance identifying his or her name, address and telephone number, and identifying the party represented.

3)

Burden and Standard of Proof
The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.

4)

Hearing Officer; Powers and Duties

- A) The Hearing Officer designated to preside over a hearing shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing, including the following:
 - i) To administer oaths and affirmations;
 - ii) To receive relevant evidence;
 - iii) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
 - iv) To consider and rule upon procedural requests;
 - v) To hold conferences for the settlement or simplification of the issues; and
 - vi) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify.

B)

The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

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5) Hearing Location

All hearings under this Subpart shall be conducted in the Department's offices located at 300 West Jefferson Street, Suite 900, in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than Springfield, Illinois, to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the Department.

6) Pre-Hearing Conferences

A) Upon the motion of either party, the Hearing Officer shall schedule a conference in order to:

- i) Simplify the factual and legal issues presented by the hearing request;
- ii) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
- iii) Exchange lists of all witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
- iv) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all of the parties.

7) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuance so that the subject matter of the hearing may be resolved expeditiously.

8) Default

If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to emergency situation beyond the party's control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (b)(7) above. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the party's control.

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- 9) Within 30 days after the close of the hearing record, the Hearing Officer shall issue proposed findings of fact, conclusions of law and recommendations as to the disposition of the case.
- 10) The Director shall review the administrative record in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.
- c) Upon the issuance of a final administrative decision which finds that a well has been abandoned or is leaking salt water, oil, gas or other deleterious substances into any fresh water formation or onto the surface of the land, the permittee shall, within thirty (30) days, properly plug, replug or repair the well so as to remedy the situation.
- d) If the permittee fails to remedy the situation within thirty (30) days from the date of the order, the Department may authorize any person to enter upon the land and plug, replug, or repair the well and restore the well site. The cost of all work completed under this subsection (d) shall be paid from the Annual Well Fee portion of the plugging and Restoration Fund.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1620 Plugging Orphaned Wells

- a) If upon review of Department records a determination is made that no permittee can be located, ~~the well is not located on a valid lease~~; no bond exists and no fees have been paid in accordance with Section 19.7 of the Act, the well shall be deemed an orphaned well.
- b) The Department may elect to plug, replug or repair the well and/or restore the well site of any orphaned well.
- c) If the Department determines that any condition or practice exists which creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, the Department or its agent may immediately take any action necessary to temporarily correct the source of oil, or salt water, gas or other deleterious substances intrusion into fresh water zones or onto the surface.
- d) The cost of all work completed under this Section shall be paid from the bond forfeiture monies portion of the Plugging and Restoration Fund.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1630 Emergency Well Plugging and Emergency Wells; Remedial Work

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- a) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act, this Part or any permit condition, and this practice, condition or violation creates an imminent danger to the health or safety of the public or an imminent danger of significant environmental harm or significant damage to property, the Department shall issue a cessation order pursuant to Section 240.170 of this Part to the last known permittee of record. ~~the Department employee or agent issuing the cessation order may take any action deemed necessary to cause a cessation of operations and abatement of any condition, if a responsible party cannot be readily located. If the responsible party cannot be readily located or is no longer in existence, the Department will not issue a cessation order and will take any action deemed necessary to correct the condition.~~
- b) Upon the expiration of time within which abatement was required under the cessation order, if issued, the Department may take any action, including plugging the well and well site restoration, deemed necessary to cause a cessation of the danger to the public health and safety or environmental harm and abatement of any condition. ~~the Department may elect to conduct tests and to take appropriate action to determine and temporarily correct the source of oil or salt water intrusion into fresh water zones or onto the surface.~~
- c) The cost of all emergency well plugging and emergency remedial work completed under this Section shall be paid from the Annual Well Fee portion of the Plugging and Restoration Fund.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1635 Emergency Projects

- a) If the Department determines that any condition or practice exists, which endangers the waters of the U.S. as a result of a crude oil spill or indicates the potential for a crude oil spill in accordance with the Federal Oil Pollution Act of 1990 (OPA), the Department may activate the OPA Fund in accordance with USEPA guidelines.
- b) The cost of all work completed under this Section shall be paid from the OPA reimbursement portion of the Plugging and Restoration Fund.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 240.1640 Repayment of Funds

- a) The permittee must reimburse the Plugging and Restoration Fund for all funds obligated from the Plugging and Restoration Fund, excepting OPA monies, for repair, plugging or restoration work on the permittee's wells or sites, together with all interest accrued, as provided under

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Section 19.9 of the Act.

- b) Prior to repayment of all funds, the permittee shall not operate any other existing wells in the permittee's name.
- c) After repayment of all funds, the permittee shall post a bond in accordance with Section 240.1500(a)(1)(E) and (a)(2) for a period of 2 consecutive billing cycles in accordance with Section 240.1500(a)(3)(C) prior to permitting or operating any wells.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART Q: ANNUAL WELL FEES

Section 240.1710 Annual Permittee Reporting

- a) Permittees are required to submit, on a form prescribed by the Department, an annual verification of address and status.
- b) The form shall contain reports for information on Permittees:
- 1) current address;
 - 2) verification of well ownership;
 - 3) type of business entity and supporting documentation;
 - 4) FEIN; and
 - 5) names and addresses of principals, officers or owners.
- c) Forms shall accompany the Annual Well Fee payment and shall be submitted by September 1 of each year.
- d) Authority of person signing forms

1) If the permittee is a sole proprietor, the form shall be signed by the individual. If the permittee is a partnership, the form shall be signed by a general partner. If the permittee is a corporation, the form shall be signed by an officer of the corporation.

2) In lieu of the signature of the permittee, the form may be signed by a person having a power of attorney to sign for such permittee, provided a certified copy of the power of attorney is on file with the Department or accompanies the form.

e) If a permittee did not submit an annual verification of address and status form during the most recent annual fee payment period, a reporting form is required at the time of all well permit and transfer requests.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS
AND FOR GAS STORAGE AND OBSERVATION WELLS

Section 240.1820 Permit Requests in a Underground Gas Storage Field

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- a) When the proposed location to drill, deepen, convert or amend an oil or gas production or Class II well, as defined in Subparts B and C, or a Test Hole, as defined in Subpart L, occurs within the limits of an Underground Gas Storage Field, or within any protective boundary shown on the Gas Storage Operators map submitted to the Department, a permit shall not be issued until the applicant complies with subsections (a)(1) or (2) below:
- 1) Enters into an agreement with Gas Storage Operator, outlining safety precautions and well drilling, completion, operating and plugging specifications. The agreement shall be signed by the applicant and the Gas Storage Operator. Agreement shall be submitted with the permit application.
 - 2) Submits a copy of an agreement previously reached with the Gas Storage Operator which governs the relationship between the applicant and the Gas Storage Operator with respect to safety precautions and which outlines safety precautions and well drilling, completion, operating and plugging issues specifications. The agreement must be in full effect and cover the proposed drilling location.

3) If an agreement cannot be reached after the applicant has exercised due diligence in negotiations, the applicant shall notify the Gas Storage Operator of the proposed location and depth of the well by certified mail, return receipt requested. The certified mail receipt shall be attached to the permit application. If a written objection is not received by the Department within fifteen (15) days after the date of receipt of the permit shall be issued. If a written objection to the application is filed with the Department within fifteen (15) days after receipt of the notice of application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a question regarding public safety, resource ownership or sufficiency of application, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

b) Public Hearing

- 1) Any public hearing held pursuant to this Section shall be a formal hearing conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.
- 2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing such notice by United States mail, postage prepaid, addressed to their last known home or business address.
- 3) A certified court reporter shall record the hearing at the Department's expense.
- 4) A Hearing Officer designated by the Department shall conduct the hearing. The Hearing Officer shall allow all parties at the

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1) Heading of the Part:	Petroleum Underground Storage Tanks
2) Code Citation:	35 Ill. Adm. Code 732
3) Section Numbers:	Proposed Action:
732.100	Amended
732.101	Amended
732.103	Amended
732.104	Amended
732.202	Amended
732.203	Amended
732.300	Amended
732.302	Amended
732.303	Amended
732.304	Amended
732.305	Amended
732.306	Amended
732.307	Amended
732.308	Amended
732.309	Amended
732.310	Amended
732.311	Amended
732.312	New
732.400	Amended
732.402	Amended
732.403	Amended
732.404	Amended
732.405	Amended
732.406	Amended
732.407	Amended
732.408	Amended
732.409	Amended
732.410	Repealed
732.501	Amended
732.502	Amended
732.503	Amended
732.601	Amended
732.602	Amended
732.603	Amended
732.604	Amended
732.605	Amended
732.606	Amended
732.608	Amended
732.612	Amended
732.700	New
732.701	New
732.702	New
732.703	New

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hearing to present evidence in any form, included by oral testimony or documentary evidence, unless the Hearing Officer determines such evidence is irrelevant, immaterial, unduly repetitious, or of such such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.

5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.

6) Within thirty--4 30) days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting Requirements

- a) Wells shall, at a minimum, be constructed in accordance with Section 240.610(a) and (b) of this Part.
- b) Wells shall be subject to the operating requirements of Section 240.630(a), (b) and (c) of this Part and the leaking well provisions of Section 240.1610 of this Part.
- c) Wells shall be subject to the reporting requirements of Section 240.640 and confidentiality provisions of Section 240.650 of this Part.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section 240.1940 When Wells Shall Be Plugged and Department Notification

Service wells shall be plugged when no longer used for the purpose for which they were permitted--unless--converted--in--accordance--with--Section--240.1224. At least 24 hours prior to commencing plugging the permittee shall notify the District Office for the county in which the well is located.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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732.704 New
 732.Appendix B Amended
 732.TABLE A Repealed
 732.TABLE B Repealed
 732.TABLE C Repealed
 732.TABLE D Repealed
 732.ILLUSTRATION A Repealed
 732.ILLUSTRATION B Repealed
 732.ILLUSTRATION C Repealed
 732.ILLUSTRATION D Repealed
 732.Appendix C New

4) Statutory Authority: 415 ILCS 5/27 and 57.14

5) A Complete Description of the Subjects and Issues Involved: On September 16, 1996 the Illinois Environmental Protection Agency (Agency) filed this proposal to amend the Board's existing underground storage tank (UST) rules as required by P.A. 89-457, signed and effective May 22, 1996. P.A. 89-457 requires that the Board complete its rulemaking on or before March 15, 1997. The intent of the proposal is to effectuate changes for three reasons: (1) to make the UST program consistent with specified federal requirements; (2) to clarify issues which have arisen since initial implementation of this Part; and (3) to address issues unresolved in the predecessor R94-2(B) docket, such as determining risk-based remediation objectives and site classification. Specifically, this proposal requires submission of reports on Agency forms and indicates that the Agency's failure to make a timely decision is a denial. Further, the definition of "occurrence" has been changed to parallel the statutory change, and a list of what constitutes early action has been added. Language was added to allow the Agency to require groundwater investigations, and alternative methods for soil testing were included. Finally procedures for issuance of a "No Further Remediation" letter have been added in a new Subpart.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Policy Objectives: These proposed rules and amendments are required by P.A. 89-457 and do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)).

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should

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reference R97-10 and be sent to:

Dorothy Gunn
 Clerk of the Pollution Control Board
 100 West Randolph Street
 Suite 11-500
 Chicago, Illinois 60601

Questions regarding these proposed amendments may be addressed to:

Marie E. Tipsord
 Attorney Assistant
 Illinois Pollution Control Board
 100 West Randolph Street, Suite 11-500
 Chicago, Illinois 60601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Any small business which may have a leaking underground storage tank.
 B) Reporting, bookkeeping or other procedures required for compliance: The proposal contains several reports which must be filed if a leak is discovered.

C) Types of professional skills necessary for compliance: Some forms may need to be filled out by an engineer or attorney.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Rule(s) begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

PART 732
PETROLEUM UNDERGROUND STORAGE TANKS

SUBPART A: GENERAL

Section	
732.100	Applicability
732.101	Election to Proceed under Part 732
732.102	Severability
732.103	Definitions
732.104	Incorporations by Reference
732.105	Agency Authority to Initiate Investigative, Preventive or Corrective Action

SUBPART B: EARLY ACTION

732.200	General
732.201	Agency Authority to Initiate
732.202	Early Action
732.203	Free Product Removal
732.204	Application for Payment

SUBPART C: SITE EVALUATION AND CLASSIFICATION

732.300	General
732.301	Agency Authority to Initiate
732.302	"No Further Action" Sites
732.303	"Low Priority" Sites
732.304	"High Priority" Sites
732.305	Plan Submittal and Review
732.306	Deferred Site Classification; Priority List
732.307	Site Evaluation
732.308	Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells
732.309	Site Classification Completion Report
732.310	Indicator Contaminants
732.311	Indicator Contaminant Groundwater Objectives
732.312	Classification by Exposure Pathway Exclusion

SUBPART D: CORRECTIVE ACTION

732.400	General
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SUBPART E: SELECTION AND REVIEW PROCEDURES FOR PLANS AND REPORTS

732.500	General
732.501	Submittal of Plans or Reports
732.502	Completeness Review
732.503	Full Review of Plans or Reports
732.504	Selection of Plans or Reports for Full Review
732.505	Standards for Review of Plans or Reports

SUBPART F: PAYMENT OR REIMBURSEMENT

732.600	General
732.601	Applications for Payment
732.602	Review of Applications for Payment
732.603	Authorization for Payment; Priority List
732.604	Limitations on Total Payments
732.605	Eligible Costs
732.606	Ineligible Costs
732.607	Payment for Handling Charges
732.608	Apportionment of Costs
732.609	Subrogation of Rights
732.610	Indemnification
732.611	Costs Covered by Insurance, Agreement or Court Order
732.612	Determination and Collection of Excess Payments

SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

732.700	General
732.701	Issuance of a "No Further Remediation" Letter
732.702	Contents of a "No Further Remediation" Letter
732.703	Duty to Record a "No Further Remediation" Letter
732.704	Voidance of a "No Further Remediation" Letter

APPENDIX A
Indicator Contaminants (Repealed)

Additional Parameters Groundwater---and---Soil---Remediation
Objectives---Acceptable---Detection---Limits---(AD5)---and---Soil
Remediation-Methodology

TABLE A Groundwater and Soil Remediation Objectives (Repealed)

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TABLE B Soil Remediation Methodology: Model Parameter Values (Repealed)
 TABLE C Soil Remediation Methodology: Chemical Specific Parameters (Repealed)
 TABLE D Soil Remediation Methodology: Objectives (Repealed)
 ILLUSTRATION A Equation For Groundwater Transport (Repealed)
 ILLUSTRATION B Equation For Soil-Groundwater Relationship (Repealed)
 ILLUSTRATION C Equation For Calculating Groundwater Objectives at the Source (Repealed)
 ILLUSTRATION D Equation For Calculating Soil Objectives at the Source (Repealed)

APPENDIX C Backfill Volumes

AUTHORITY: Implementing Sections 22.12 and 57 - 57.17 and authorized by Section 57.14 of the Environmental Protection Act (415 ILCS 5/22.12 and 57 - 57.17 and 57.14).

SOURCE: Adopted in R94-2 at 18 Ill. Reg. 15008, effective September 23, 1994; amended in R97-10 at 20 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUPPORT A: GENERAL

Section 732.100 Applicability

- a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release has been confirmed and required to be reported to Illinois Emergency Management Agency (IEMA) on or after September 23, 1994 in accordance with regulations adopted by the Office of State Fire Marshal (OSFM). It does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Environmental Protection Act (Act) (415 ILCS 5/57.5). Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to IEMA on or before September 12, 1993, may elect to proceed in accordance with this Part pursuant to Section 732.101.
- b) Upon the receipt of a corrective action order from the OSFM pursuant to Section 57.5(g) of the Act, where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and taken out of operation before January 2, 1974, or any underground storage tank system used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit shall conduct corrective action

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- c) Owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the "No Further Remediation" letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 732.105 of this Part to expedite investigative, preventive or corrective action by an owner or operator or to initiate such action. The following underground storage tank systems are excluded from the requirements of this Part:
- 1) Equipment or machinery that contains petroleum substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
 - 2) Any underground storage tank system whose capacity is 110 gallons or less.
 - 3) Any underground storage tank system that contains a de minimus concentration of petroleum substances.
 - 4) Any emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 732.101 Election to Proceed under Part 732

- a) Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority on or before September 12, 1993, may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election shall be submitted on forms prescribed and provided by the Agency. Corrective action shall then follow the requirements of this Part. The election shall be effective upon receipt by the Agency and shall not be withdrawn once made.
- b) Except as provided in Section 732.100(b) of this Part, owners or operators of underground storage tanks (USTs) used exclusively to store heating oil for consumptive use on the premises where stored and which serve other than a farm or residential unit may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election shall be submitted on forms prescribed and provided by the Agency. Corrective action shall then follow the requirements of this Part. The election shall be effective upon receipt by the Agency and shall not be withdrawn once made.
- c) If the owner or operator elects to proceed pursuant to this Part, corrective action costs incurred in connection with the release and prior to the notification of election shall be payable or reimbursable in the same manner as was allowable under the then existing law.

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Corrective action costs incurred after the notification of election shall be payable or reimbursable in accordance with Subparts E and F of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5].

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Alternative Technology" means a process or technique, other than conventional technology, used to perform a corrective action with respect to soils contaminated by releases of petroleum from an underground storage tank.

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank. (Section 57.2 of the Act)

"Class I Groundwater" means groundwater that meets the Class I: potable resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act. (Section 57.2 of the Act)

"Class III Groundwater" means groundwater that meets the Class III: special resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act. (Section 57.2 of the Act)

"Confirmed Exceedence" means laboratory verification of an exceedence of the applicable groundwater quality standards or objectives.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Conventional Technology" means a process or technique to perform a corrective action by removal, transportation and disposal of soils

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contaminated by a release of petroleum from an underground storage tank in accordance with applicable laws and regulations, but without processing to remove petroleum from the soils.

"Corrective Action" means activities associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act. (Section 57.2 of the Act)

"Fill Material" means non-native or disturbed materials used to bed and backfill around an underground storage tank. (Section 57.2 of the Act)

"Free Product" means petroleum that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

"Full Accounting" means a compilation of documentation to establish, substantiate and justify the nature and extent of the corrective action costs incurred by an owner or operator.

"Fund" means the Underground Storage Tank Fund. (Section 57.2 of the Act)

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Handling Charges" means administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

"Heating Oil" means petroleum that is No. 1, No. 2, No. 4 - light, No. 4 - heavy, No. 5 - light, No. 5 - heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker c. (Section 57.2 of the Act)

"IEMA" means the Illinois Emergency Management Agency.

"Indemnification" means indemnification of an owner or operator for the amount of judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator. (Section 57.2 of the Act)

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"Licensed Professional Engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering. (Section 57.2 of the Act)

"Line Item Estimate" means an estimate of the costs associated with each line item (including, but not necessarily limited to, personnel, equipment, travel, etc.) which an owner or operator anticipates will be incurred for the development, implementation and completion of a plan or report.

"Man-made Pathway" means constructed routes that may allow for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches or previously excavated and filled areas.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural Pathway" means natural routes for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Occurrence" means any release from an underground storage tank, including any additional release from that underground storage tank at the site identified in the course of performing corrective action in response to the initial release. (Section 57.2 of the Act)

"OSFM" means the Office of the State Fire Marshal.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (42 U.S.C. Sec. 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground shall not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use or dispensing of regulated substances;

In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the

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discontinuation of its use. (42 U.S.C. Sec. 6991)

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body and shall include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 U.S.C. Sec. 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). (42 U.S.C. Sec. 6991)

"Physical Soil Classification" means verification of geological conditions consistent with regulations for identifying and protecting potable resource groundwater or verification that subsurface strata are as generally mapped in the publication Illinois Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al. Such classification may include review of soil borings, well logs, physical soil analysis, regional geologic maps, or other scientific publications. (Section 57.2 of the Act)

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3.65 of the Act)

"Property Damage" means physical injury to, destruction of, or contamination of tangible property owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank. (Derived from Section 57.2 of the Act)

"Registration" means registration of an underground storage tank with the OSFM in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

"Regulated Recharge Area" means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination.

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(Section 3.67 of the Act)

"Regulated Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. Sec. 9601(14)] (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act [42 U.S.C. Sec. 6921 et seq.]), and Petroleum. (42 U.S.C. Sec. 6991)

"Release" means any *spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils.* (Section 57.2 of the Act)

"Residential Tank" means an underground storage tank located on property used primarily for dwelling purposes.

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives or dormitories.

"Setback Zone" means a *geographic area, designated pursuant to the Act or regulations, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater.* (Section 3.61 of the Act)

"Site" means any *single location, place, tract of land or parcel of property including contiguous property not separated by a public right-of-way.* (Section 57.2 of the Act)

"Stratigraphic Unit" means a *site-specific geologic unit of native deposited material and/or bedrock of varying thickness (e.g., sand, gravel, silt, clay, bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct contrast in geologic material or a change in physical features within a zone of gradation. For the purposes of this Part, a change in stratigraphic unit is identified by one or a combination of differences in physical features such as texture, cementation, fabric, composition, density, and/or permeability of the native material and/or bedrock.*

"Surface Body of Water" or "Surface Water Body" means a natural or man-made body of water on the ground surface including, but not limited to, lakes, ponds, reservoirs, retention ponds, rivers, streams, creeks and drainage ditches. Surface body of water does not include puddles or other accumulations of precipitation, run-off or groundwater in UST excavations.

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"Tank Field" means all underground storage tanks at a site that reside within a circle with a 100 foot radius.

"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.), or which is an intrastate pipeline facility regulated under state laws as provided in either of these provisions of law, and which is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor. (Derived from 42 U.S.C. Sec. 6991)

The term "Underground Storage Tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit. (Section 57.2 of the Act)

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.104 Incorporations by Reference

- a) The Board incorporates the following material by reference:
- ASTM. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103 (215) 299-5400
 - ASTM D 422-63, Standard Test Method for Particle-Size Analysis of Soils, approved November 21, 1963 (reapproved 1990).
 - ASTM D 1140-92 ~~1140-54~~, Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 um) Sieve, approved November 15, 1992 ~~September-15-1954~~ ~~(reapproved-1990)~~.
 - ASTM D 2216-92 ~~2216-90~~, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, approved June 15, 1992 ~~November-30-1990~~.
 - ASTM D 4643-93 ~~4643-87~~, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved July 15, 1993 ~~February-27-1987~~.
 - ASTM D 2487-93 ~~2487-90~~, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993 ~~June-22-1990~~.
 - ASTM D 2488-93 ~~2488-90~~, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993 ~~June-29-1990~~.
 - ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeater, approved June 22, 1990.
 - ASTM D 4525-90, Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.
 - ASTM D 1587-83, Standard Practice for Thin-Walled Tube Sampling of Soils, approved August 17, 1983.
 - ISGS. Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL 61820-6364 (217) 333-4747
 - Richard C. Berg, John P. Kempton, Keros Cartwright, "Potential for Contamination of Shallow Aquifers in Illinois" (1984), Circular No. 532.
 - NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703) 487-4600
 - "Methods for Chemical Analysis of Water and Wastes," EPA Publication No. EPA-600/4-79-020 (March 1983), Doc. No. PB 84-128677.
 - "Methods for the Determination of Organic Compounds in Drinking Water," EPA, EMSL, EPA-600/4-88/039 (Dec. 1988), Doc. No. PB 89-220461.
 - "Practical Guide for Ground-Water Sampling," EPA Publication No. EPA-600/2-85/104 (September 1985), Doc. No. PB 86-137304.
 - "Rapid Assessment of Exposure to Particulate Emissions from

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(Source: Contamination Sites," EPA Publication No. EPA/600/8-85/002 (February 1985), Doc. No. PB 85-192219.

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846 [Third Edition, September, 1986], as amended by ~~Revision-1-1991~~ Update I, [July 1992]], Doc. No. 955-001-00000-1 ~~PB-89-148076~~.

USGS. United States Geological Survey, 1961 Stout Street, Denver, CO 80294 (303) 844-4169

"Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," Book I, Chapter D2 (1981).

b) CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (202) 783-3238

40 CFR 261, Appendix II (1992).

40 CFR 761.120 (1993).

c) This Section incorporates no later editions or amendments.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: EARLY ACTION

Section 732.202 Early Action

- a) Upon confirmation of a release of petroleum from an UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, shall perform the following initial response actions within 24 hours after the release:
- 1) Report the release to IEMA (e.g., by telephone or electronic mail);
 - 2) Take immediate action to prevent any further release of the regulated substance to the environment; and
 - 3) Identify and mitigate fire, explosion and vapor hazards.
- b) Within 20 days after ~~upon~~ confirmation of a release of petroleum from an UST system in accordance with regulations promulgated by the OSFM, the owner or operator shall perform the following initial abatement measures:
- 1) Remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment;
 - 2) Visually inspect any above ground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;
 - 3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

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- 4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;
- 5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with regulations promulgated by the OSFM. In selecting sample types, sample locations, and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release; and
- 6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Section 732.203 below.
- c) Within 20 days after confirmation of a release of petroleum from an UST system in accordance with regulations promulgated by the OSFM, owners or operators shall submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section above and any resulting information or data. The report shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information.~~
- d) Within 45 days after confirmation of a release, owners or operators shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in subsections (a) and (b) of this Section above. This information shall must include, but is not limited to, the following:
 - 1) Data on the nature and estimated quantity of release;
 - 2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;
 - 3) Results of the site check required at subsection (b)(5) of this Section;
 - 4) Results of the free product investigations required at Section 732.202 subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 732.203.
- e) Within 45 days after confirmation of a release of petroleum from an UST system in accordance with regulations promulgated by the OSFM, owners or operators shall submit to the Agency the information collected in compliance with subsection (d) of this Section above in a manner that demonstrates its applicability and technical adequacy. The information shall be submitted on forms prescribed and provided by

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- f) the Agency ~~or in a similar format containing the same information.~~ Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system, ~~or repair~~ or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal. The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. Early action may also include a disposal in accordance with applicable regulations or ex-situ treatment of contaminated fill material in accordance with Section 57.7(a)(1)(B) of the Act. (Section 57.6(b) of the Act)
 - g) For purposes of reimbursement, the activities set forth in subsection (f) of this Section shall be performed within 45 days after confirmation of a release, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days. The owner or operator shall notify the Agency in writing within 45 days after confirmation of a release of such circumstances. Costs incurred beyond 45 days shall be eligible if the Agency determines that they are consistent with early action.
- BOARD NOTE: Section 57.7(a)(1)(B) of the Act limits payment or reimbursement from the Fund for removal of contaminated fill material during early action activities. Owners or operators proceeding with activities set forth in subsection (f) of this Section are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.203 Free Product Removal

Under any circumstance in which conditions at a site ~~At sites--where investigations--under--Section--732.202(b)(6)~~ indicate the presence of free product, owners or operators shall remove free product to the maximum extent practicable while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements of this Section, owners or operators shall:

- a) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State and federal regulations;
- b) Use abatement of free product migration as a minimum objective for the design of the free product removal system;
- c) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and
- d) Within 45 days after the confirmation of presence of free product

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~~release-of-petroleum~~ from an a UST in accordance with regulations promulgated by the OSM, prepare and submit to the Agency a free product removal report on forms prescribed and provided by the Agency ~~or--in--a--similar-format-containing-the-same-information.~~ The report shall, at a minimum, provide the following:

- 1) The name of the persons responsible for implementing the free product removal measures;
- 2) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;
- 3) The type of free product recovery system used;
- 4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
- 5) The type of treatment applied to, and the effluent quality expected from, any discharge;
- 6) The steps that have been or are being taken to obtain necessary permits for any discharge; and
- 7) The disposition of the recovered free product.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section 732.300 General

- a) Except as provided in subsection (b) of this Section below, the owner or operator of any site subject to this Part shall evaluate and classify the site in accordance with the requirements of this Subpart C. All such sites shall be classified as "No Further Action," "Low Priority" or "High Priority." Site classifications shall be based on the results of the site evaluation, including, but not limited to, the physical soil classification and the groundwater investigation, if applicable.
- b) Owners or operators subject to this Part 732 may proceed without conducting site classification activities pursuant to this Subpart C under the following circumstances:
 - 1) If the owner or operator chooses to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part. Upon completion of the remediation, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels. A groundwater investigation may be required if any of the following conditions exist, unless an evaluation through 35 Ill. Adm. Code 742 determines that no groundwater investigation is necessary:
 - or
 - A) There is evidence that groundwater wells have been affected by the release (e.g., as found during release confirmation or previous corrective action measures);

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- B) Free product is found to need recovery in compliance with Section 732.203; or
- C) There is evidence that contaminated soils may be in contact with groundwater as a result of:
 - i) Groundwater infiltrating the tank excavation; or
 - ii) Groundwater occurring at or above the invert elevation of the UST.

- 2) If, upon completion of early action requirements pursuant to Subpart B of this Part, the owner or operator can demonstrate compliance with the remediation objectives required in Section 732.408 of this Part. Upon completion of the early action requirements, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels.

BOARD NOTE: Owners or operators proceeding under subsection (b) of this Section above are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

- c) For corrective action completion reports submitted pursuant to subsection (b) of this Section above, the Agency shall issue a "No Further Remediation" letter upon approval of the report by the Agency ~~or-by-operation-of-law~~ in accordance with Subpart E.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.302 "No Further Action" Sites

- a) Unless an owner or operator elects to classify a site under Section 732.312, sites ~~shall~~ be classified as "No Further Action" if all of the following criteria are satisfied:

- 1) The physical soil classification procedure confirms either of the following:
 - A) "Berg Circular"

- i) The site is located in an area designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and
- ii) The site's actual physical soil conditions are verified as consistent with those designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or
- B) The site soil characteristics satisfy the criteria of Section 732.307(d)(3) of this Part;
- 2) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

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- 3) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural pathways or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
- 4) There is no designated Class III special resource groundwater within 200 feet of the site; and
- 5) After completing early action measures in accordance with Subpart B of this Part, no surface bodies of water are adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.
- b) Groundwater investigation shall be required to confirm that a site meets the criteria of a "No Further Action" site if the Agency has received information indicating that the groundwater is contaminated at levels in excess of applicable groundwater objectives specified in 35 Ill. Adm. Code 742 at the property boundary line or 200 feet from the UST system, whichever is less. In such cases, a groundwater investigation that meets the requirements of Section 732.307(j) shall be performed. If the investigation confirms there is an exceedance of applicable indicator contaminant objectives, the Agency may reclassify the site as "High Priority". ~~No groundwater investigation pursuant to Section 732.307(j) shall be required to demonstrate that a site meets the criteria of a "No Further Action" site.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.303 "Low Priority" Sites

Unless an owner or operator elects to classify a site under Section 732.132, sites **Sites** shall be classified as "Low Priority" if all of the following criteria are met:

- a) The physical soil classification and groundwater investigation procedures confirm the following:
- 1) The groundwater quality standard or groundwater objective for any applicable indicator contaminant has not been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and
 - 2) "Berg Circular"
 - A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and
 - B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, B1,

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- B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or
- 3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;
- b) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;
- c) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
- d) There is no designated Class III special resource groundwater within 200 feet of the site; and
- e) After completing early action measures in accordance with Subpart B of this Part, there are no surface bodies of water adversely affected by the presence of a visible sheen or free product layer as a result of the release of petroleum.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.304 "High Priority" Sites

Unless an owner or operator elects to classify a site under Section 732.112, sites **Sites** shall be classified as "High Priority" if any of the following are met:

- a) The physical soil classification and groundwater investigation procedures confirm the following:
- 1) The groundwater quality standard or groundwater objective for any applicable indicator contaminant has been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and
 - 2) "Berg Circular"
 - i) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and
 - ii) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or
- 3) The site soil characteristics do not satisfy the criteria of

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Section 732.307(d)(3) of this Part;

- b) The UST system is within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;
- c) After completing early action measures in accordance with Subpart B of this Part, there is evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
- d) There is designated Class III special resource groundwater within 200 feet of the site; or
- e) After completing early action measures in accordance with Subpart B of this Part, a surface body of water is adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.305 Plan Submittal and Review

- a) Unless an owner or operator elects to classify a site under Section 732.312, prior to conducting any site evaluation activities, the owner or operator shall submit to the Agency a site classification plan, including but not limited to a physical soil classification and groundwater investigation plan, satisfying the minimum requirements for site evaluation activities as set forth in Section 732.307. The plans shall be designed to collect data sufficient to determine the site classification in accordance with Sections 732.302, 732.303 or 732.304 of this Part. Site classification plans shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information.~~

- b) In addition to the plan required in subsection (a) of this Section above and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency:

- 1) An application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part, except as provided in subsection (b)(2) of this Section below; and
- 2) A site classification budget plan, which shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and a line item estimate costs associated with the development, implementation and completion of the site evaluation activities required in Section 732.307. In accordance with Section 732.204 of this Part, the owner or operator may submit a site classification budget plan that

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includes a line item estimate of the activities and costs of early action for review and approval prior to the submittal of an application for payment. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part. Site classification budget plans shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information.~~

- c) The Agency shall have the authority to review and approve, reject or require modification of any plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.
- d) Notwithstanding subsections (a) and (b) of this Section above, an owner or operator may proceed to conduct site evaluation activities in accordance with this Subpart C prior to the submittal or approval or an otherwise required site classification plan (including physical soil classification and groundwater investigation plans and associated budget plans). However, any such plan shall be submitted to the Agency for review and approval, rejection or modification in accordance with the procedures contained in Subpart E of this Part prior to payment or reimbursement for any related costs or the issuance of a "No Further Remediation" letter.
- e) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject or require modifications of the amended plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners or operators proceeding under subsection (b) of this Section are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.306 Deferred Site Classification; Priority List for Payment

- a) ~~An Notwithstanding any other provision or rule of law with the exception of the early action requirements of Subpart B of this Part and the investigation of migratory pathways as required by Section 732.309(c), the owner or operator who has received approval for submitted any budget plan submitted pursuant to this Part and who is eligible for payment from the underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met. shall be~~

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~~eligible to elect to commence site classification upon the availability of funds. Such election shall be made in writing to the Agency within 30 days of receipt of Agency approval of a budget plan. At that time, or up until 60 days thereafter, the owner or operator shall also provide the results of the investigation of the migratory pathways so that the Agency can make its decision in accordance with subsection (b) of this Section. The Agency shall provide notice to the owner or operator at such time as it approves the budget plan whether sufficient resources are available in order to immediately commence the approved measures.~~ (Section 57.8(b) of the Act)

- 1) Approvals of budget plans shall be pursuant to Agency review or by operation of law in accordance with Subpart E of this Part.
- 2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment in an amount equal to the total of the approved budget plans and shall provide notice to owners or operators of the availability of funds in accordance with Section 732.503(h). Funds shall not be deemed available for owners or operators electing to defer site classification so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.

- 3) Upon receiving written notification that an owner or operator elects to defer site classification until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment based solely on the date the Agency receives the written election notification of deferral, with the earliest dates having the highest priority. The Agency's record of the date of receipt shall be deemed conclusive, unless a contrary date is proven by a dated, signed receipt from registered or certified mail.

- 4) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner or operator's site. After such notification the owner or operator shall commence site classification activities.

- 5) Authorization of payment of encumbered funds for deferred site classification activities shall be approved in accordance with the requirements of Subpart F of this Part.

- 6) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred corrective action pursuant to Section 732.406 with both types of deferrals entering the list and moving up solely on the basis of the date the Agency receives written notice of the deferral.

b) An owner or operator who elects to defer site classification, low

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priority groundwater monitoring, or remediation activities under subsection (a) of this Section shall submit a report demonstrating the following:

- 1) The early action requirements of Subpart B of this Part have been met; and
- 2) The release does not pose a threat to human health or the environment through migratory pathways. ~~Should the Agency or owner or operator determine a threat to human health and/or the environment requires immediate action, including the existence of petroleum or vapors which threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces, the election to commence site classification upon the availability of funds shall not be available. The Agency shall notify the owner or operator by certified mail that a situation exists that would preclude the owner or operator from commencing site classification upon the availability of funds. Such action by the Agency shall not be subject to appeal.~~ (Section 57.8(b) of the Act)

- c) An owner or operator may withdraw the election to commence site classification activities upon the availability of funds at any time. The Agency shall be notified in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with site classification in accordance with the requirements of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.307 Site Evaluation

- a) Except as provided in Section 732.300(b), or unless an owner or operator elects to classify a site under Section 732.312, the owner or operator of any site for which a release of petroleum has been confirmed in accordance with regulations promulgated by the OSFM and reported to IMHA shall arrange for site evaluation and classification in accordance with the requirements of this Section. A Licensed Professional Engineer (or, where appropriate, persons working under the direction of a Licensed Professional Engineer) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified as required by the supervising Licensed Professional Engineer.

- b) As a part of each site evaluation, the Licensed Professional Engineer shall conduct a physical soil classification in accordance with the procedures at subsections (c) or (d) of this Section below. Except as provided in subsection (e) of this Section below, all elements of the chosen method of physical soil classification must be completed for each site. In addition to the requirement for a physical soil

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classification, the Licensed Professional Engineer shall, at a minimum, complete the requirements at subsections (f) through (j) of this Section below before classifying a site as "High Priority" or "Low Priority" and subsections (f) through (i) of this Section below before classifying a site as "No Further Action."

c) Method One for Physical Soil Classification:

1) Soil Borings

A) Prior to conducting field activities, a review of scientific publications and regional geologic maps shall be conducted to determine if the subsurface strata are as generally mapped in the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part. A list of the publications reviewed and any preliminary conclusions concerning the site geology shall be included in the site classification completion report.

B) A minimum of one soil boring to a depth that includes 50 feet of native soil or to bedrock shall be performed for each tank field with a release of petroleum.

C) If, during boring, bedrock is encountered or if auger refusal occurs because of the density of a geologic material, a sample of the bedrock or other material shall be collected to determine permeability or an in situ test shall be performed to determine hydraulic conductivity in accordance with subsections (c)(3)(A) and (c)(3)(B) of this Section below. If bedrock is encountered or auger refusal occurs, the Licensed Professional Engineer shall verify that the conditions that prevented the full boring are expected to be continuous through the remaining required depth.

D) Borings shall be performed within 200 feet of the outer edge of the tank field or at the property boundary, whichever is less. If more than one boring is required per site, borings shall be spaced to provide reasonable representation of site characteristics. The actual spacing of the borings shall be based on the regional hydrogeologic information collected in accordance with Section 732.307(c)(1)(A). Location shall be chosen to limit to the greatest extent possible the vertical migration of contamination.

E) Soil borings shall be continuously sampled to ensure that no gaps appear in the sample column.

F) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.

G) Any water bearing units encountered shall be protected as necessary to prevent cross-contamination of water bearing units during drilling.

H) The owner or operator may utilize techniques other than those specified in this subsection (c)(1) for soil

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classification provided that:

- i) The alternative technology provides equivalent, or superior, information as required by this Section;
- ii) The technology has been successfully utilized in applications similar to the proposed application; and
- iii) Methods for quality control can be implemented; and
- iv) The owner or operator has received written approval from the Agency prior to the start of the investigation.

2) Soil Properties

The following tests shall be performed on a representative sample of each stratigraphic unit encountered at the site:

A) A soil particle analysis using the test methods specified in ASTM (American Society for Testing and Materials) Standards D 422-63 or D 1140-92 ~~44-54~~, "Standard Test Method for Particle-Size Analysis of Soils," or "Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 um) Sieve," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

B) A soil moisture content analysis using the test methods specified in ASTM Standards D 2216-92 ~~2216-99~~ or D 4643-93 ~~4643-97~~, "Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock," or "Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

C) A soil classification using the test methods specified in ASTM Standards D 2487-93 ~~2487-99~~ or D 2488-93 ~~2488-99~~, "Standard Test Method for Classification of Soils for Engineering Purposes" or "Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)," incorporated by reference in Section 732.104 of this Part, or other Agency approved method; and

D) Unconfined compression strength shall be determined in tons per square foot by using a hand penetrometer; and

E) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Method D 1587-83, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of 35 Ill. Adm. Code 732.308(a).

3) Hydraulic Conductivity

A) If a water bearing unit is encountered while performing soil boring(s) for the physical soil classification, an in-situ

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hydraulic conductivity test shall be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an in-situ hydraulic conductivity test shall be performed on each such unit.

i) Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.

ii) The screen must be contained within the saturated zone.

B) If no water bearing unit is encountered in the required soil boring(s), then the following laboratory analyses shall be conducted, as applicable, on a representative sample from each stratigraphic unit:

i) A hydraulic conductivity analysis of undisturbed or laboratory compacted granular soils (i.e., clay, silt, sand or gravel) using the test method specified in ASTM (American Society for Testing and Materials) Standard D 5084-90, "Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeater," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.

ii) Granular soils having estimated hydraulic conductivity of greater than 1×10^{-3} cm/s will fail the hydraulic conductivity requirements within the Berg Circular for "No Further Action" geology, and therefore, no tests need to be run on the soils.

iii) A hydraulic conductivity analysis of bedrock using the test method specified in ASTM (American Society for Testing and Materials) Standard D 4525-90, "Standard Test Method for Permeability of Rocks by Flowing Air," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.

iv) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Method D 1587-83, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of 35 Ill. Adm. Code 732.308(a).

4) If the results of the physical soil classification or groundwater investigation reveal that the actual site geologic characteristics are different from those generally mapped by the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois,"

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incorporated by reference at Section 732.104 of this Part, the site classification shall be determined using the actual site geologic characteristics.

d) Method Two for Physical Soil Classification:

1) Soil Borings

A) A minimum of one soil boring to a depth that includes native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of the deepest UST for each tank field with a release of petroleum at least the first 15 feet of native material below the invert elevation of the UST.

B) This boring shall meet the requirements of subsections (c)(1)(C) through (c)(1)(G) of this Section above.

2) Soil Properties

The following tests shall be performed on a representative sample of each stratigraphic unit encountered in the native soil boring:

A) A soil particle analysis satisfying the requirements of subsection (c)(2)(A) of this Section above; and

B) A pump test or equivalent to determine the yield of the geologic material. Methodology, assumptions and any calculations performed shall be submitted as part of the site classification completion report. If the aquifer geometry and transmissivity have been obtained through a site-specific field investigation, an analytical solution may be used to estimate well yield. The Licensed Professional Engineer shall demonstrate the appropriateness of the analytical solution to estimate well yield versus an actual field test. Well yield should be determined for either confined or unconfined formations. Once the yield has been determined site-specifically, the hydraulic conductivity shall be calculated; or

C) Hydraulic conductivity shall be determined in accordance with subsection (c)(3) of this Section. Once the hydraulic conductivity has been determined site-specifically, the yield shall be calculated above.

D) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Method D 1587-83, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of 35 Ill. Adm. Code 732.308(a).

3) The results of the boring(s) and tests described in subsections (d)(1) and (d)(2) of this Section above shall be used to demonstrate whether the native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of

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the deepest UST first-15-feet-of-native-material-below-the-invert elevation-of-the-UST meets all of the following criteria:

- A) Does not contain unconsolidated sand, gravel or sand and gravel that is 5 feet or more in thickness with 12 percent or less fines (i.e., fines that pass through a No. 200 sieve tested according to ASTM (American Society for Testing and Materials) Standard D 2487-93 2488-90, "Standard Test Method for Classification of Soils for Engineering Purposes," "Standard-Practice-for-Description-and-Identification-of Soils-(Visual-Manual-Procedure)," incorporated by reference at Section 732.104 of this Part, or other Agency approved method);
- B) Does not contain sandstone that is 10 feet or more in thickness, or fractured carbonate that is 15 feet or more in thickness; and
- C) Is not capable of sustained groundwater yield, from up to a 12 inch borehole, of 150 gallons per day or more from a thickness of 15 feet or less; and
 - ++ Sustained-groundwater-yield--from-up-to-a-12-inch borehole--of-150-gallons-per-day--or-more--from-a thickness-of-15-feet-or-less; or
 - ++ Hydraulic-conductivity-of--1-x-10⁻⁴--cm/sec--or greater--
- D) Is not capable of hydraulic conductivity of 1×10^{-4} cm/sec or greater.

- e) If, during the completion of the requirements of subsections (c) or (d) of this Section above, a Licensed Professional Engineer determines that the site geology is not consistent with areas D, E, F or G of the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part or that the criteria of subsection (d)(3) are not satisfied, any remaining steps required by subsections (c) or (d) may be suspended, provided that the soil investigation has been sufficient to satisfy the requirements of subsection (g) of this Section below. If activities are suspended under this subsection (e), the Licensed Professional Engineer shall complete the requirements of subsections (f) through (j) of this Section below in order to determine whether the site is "High Priority" or "Low Priority." The site conditions upon which the suspension of the requirements of subsections (c) or (d) of this Section above is based shall be documented in the site classification completion report.

f) Survey of Water Supply Wells

- 1) The Licensed Professional Engineer shall conduct a survey of water supply wells for the purpose of identifying and locating all community water supply wells within 2500 feet of the UST system and all potable water supply wells within 200 feet of the UST system. The survey shall include, but not be limited to,

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contacting the Illinois State Geological Survey and the Illinois State Water Survey. The local unit of government with authority over the site shall be contacted to determine if there is a local ordinance or policy regulating the usage of potable water supply wells.

- 2) The Licensed Professional Engineer shall provide a map to scale showing the locations of all community water supply wells and all potable water supply wells identified pursuant to subsection (f)(1) of this Section above. Radii of 200, 400, and 1000, and 2500 feet from the UST system shall be marked on the map.
- 3) The Licensed Professional Engineer shall provide a table indicating the setback zone for each community water supply well and potable water supply well identified pursuant to subsection (f)(1) of this Section above and the distance from the UST system to the well. The locations of each well shall be identified on the map by numbers corresponding to the information provided in the table.
- 4) The Licensed Professional Engineer shall determine if the UST system is within the regulated recharge area of any community water supply well or potable water supply well. The sources consulted in making this determination shall be described in the site classification completion report.
- g) Investigation of Migration Pathways
 - 1) The Licensed Professional Engineer shall conduct an investigation either separately or in conjunction with the physical soil classification to identify all potential natural and man-made migration pathways that are on the site, in rights-of-way attached to the site, or in any area surrounding the site that may be adversely affected as a result of the release of petroleum from the UST system. Once the migration pathways have been identified, the areas along all such pathways shall be further investigated in a manner sufficient to determine whether or not there is evidence that migration of petroleum or vapors along such pathways:
 - A) May potentially threaten human health or human safety; or
 - B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.
 - 2) The Licensed Professional Engineer shall provide a map of the site and any surrounding areas that may be adversely affected by the release of petroleum from the UST system. At a minimum, the map shall be to scale, oriented with north at the top, and shall show the location of the leaking UST system(s) with any associated piping and all potential natural and man-made pathways that are on the site, in rights-of-way attached to the site, or that are in areas that may be adversely affected as a result of the release of petroleum.
 - 3) Unless the Agency's review reveals objective evidence to the

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contrary, the Licensed Professional Engineer shall be presumed correct when certifying whether or not there is evidence that, through natural or man-made pathways, migration of petroleum or vapors:

- A) May potentially threaten human health or human safety; or
- B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

h) The Licensed Professional Engineer shall verify whether Class III groundwater exists within 200 feet of the UST system.

- i) The Licensed Professional Engineer shall locate all surface bodies of water on site and within 100 feet of the site and provide a map noting the locations. All such surface bodies of water shall be inspected to determine whether they have been adversely affected by the presence of a sheen or free product layer resulting from the release of petroleum from the UST system.

j) Groundwater Investigation

- 1) The For-any-site-that-fails-to-satisfy-the-requirements-for-a-No-Further-Action-site-classification--the Licensed Professional Engineer shall perform a groundwater investigation in accordance with this subsection (j) to determine whether an applicable indicator contaminant groundwater quality standard has been exceeded at the property boundary or 200 feet from the excavation, whichever is less, as a result of the UST release of petroleum.

- 2) Applicable indicator contaminants and groundwater quality standards shall be those identified pursuant to Sections 732.310 and 732.311 of this Part.

- 3) Except as provided in subsection (j)(6), a minimum of four groundwater monitoring wells shall be installed at the property boundary or 200 feet from the UST system, whichever is less. In the event that a groundwater monitoring well cannot be physically installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection, the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than the rule requires. However, once the election is made the owner or operator may not withdraw the election at a later time. The Agency may require the installation of additional monitoring wells to ensure that at least one monitoring well is located hydraulically upgradient and three monitoring wells are located installed so that they provide the greatest likelihood of detecting migration of groundwater contamination. At a minimum, monitoring well construction shall satisfy the following requirements:

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- A) Construction shall be in a manner that will enable the collection of representative groundwater samples;
 - B) All monitoring wells shall be cased in a manner that maintains the integrity of the borehole. Casing material shall be inert so as not to affect the water sample. Casing requiring solvent-cement type couplings shall not be used;
 - C) Wells shall be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section shall be packed with clean, well-rounded and uniform material sized to avoid clogging by the material in the zone being monitored. The slot size of the screen shall be designed to minimize clogging. Screens shall be fabricated from material that is inert with respect to the constituents of the groundwater to be sampled;
 - D) Annular space above the well screen section shall be sealed with a relatively impermeable, expandable material such as cement/bentonite grout, which does not react with or in any way affect the sample, in order to prevent contamination of groundwater samples and groundwater and avoid interconnections. The seal shall extend to the highest known seasonal groundwater level;
 - E) The annular space shall be backfilled with expanding cement grout from an elevation below the frost line and mounded above the surface and sloped away from the casing so as to divert surface water away;
 - F) All monitoring wells shall be covered with vented caps and equipped with devices to protect against tampering and damage. Locations of wells shall be clearly marked and protected against damage from vehicular traffic or other activities associated with expected site use; and
 - G) All wells shall be developed to allow free entry of water, minimize turbidity of the sample, and minimize clogging.
- 4) Monitoring well construction diagrams prescribed and provided by the Agency ~~or diagrams using a similar format and containing the same information~~ shall be completed for each monitoring well.
- 5) Static water elevations shall be measured for each monitoring well. Groundwater samples shall be taken from each well and analyzed for the applicable indicator contaminants. The data collected shall be used to determine the direction of groundwater flow and whether the applicable groundwater quality standards or clean-up objectives have been exceeded. Samples shall be collected and analyzed in accordance with the following procedures:
- A) Samples shall be collected in accordance with the procedures set forth in the documents "Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water," "Practical Guide for Ground-Water Sampling," "Test Methods for Evaluating Solid

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Wastes, Physical/Chemical Methods," or "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," as appropriate for the applicable indicator contaminants or groundwater objectives and as incorporated by reference at Section 732.104 of this Part.

B) Groundwater elevation in a groundwater monitoring well shall be determined and recorded to establish the gradient of the groundwater table.

C) The analytical methodology used for the analysis of the indicator contaminants shall be consistent with both of the following:

i) The methodology shall have a practical quantitation limit (PQL) at or below the objectives or detection levels of ~~Appendix-B~~ set forth in 35 Ill. Adm. Code 742 or as set for mixtures or degradation products as provided in Section 732.310 of this Part; and

ii) The methodology must be consistent with the methodologies contained in "Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water," "Practical Guide for Ground-Water Sampling," "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," and "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," as incorporated by reference at Section 732.104, or other Agency approved methods.

D) In addition to analytical results, sampling and analytical reports shall contain the following information:

i) Sample collection information including but not limited to the name of sample collector, time and date of sample collection, method of collection, and monitoring location;

ii) Sample preservation and shipment information including but not limited to field quality control;

iii) Analytical procedures including but not limited to the method detection limits and the practical quantitation limits (PQL);

iv) Chain of custody and control; and

v) Field and lab blanks.

6) As an alternative to the installation of monitoring wells under subsection (j)(3), the Licensed Professional Engineer may demonstrate to the Agency through a site-specific evaluation that the groundwater monitoring should not be required.

A) The evaluation shall be based on a demonstration of the

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following factors:

i) Whether groundwater is present within the depth of the boring used to perform physical soil classification under the selected method (Method One under Section 732.307(c));

ii) Whether groundwater is withdrawn for potable use within 1000 feet of the UST system and at what depths; and

iii) Whether seasonal fluctuation in groundwater could result in groundwater contacting contaminated soil (e.g., historical records).

B) The presence or absence of a water bearing unit under subsection (j)(6)(A)(i) of this Section shall be determined on the basis of at least one soil boring to the depth necessary to perform physical soil classification under the selected method (Method One under Section 732.307(c) or Method Two under Section 732.307(d)), unless auger refusal occurs because of the density of a geologic material or because bedrock is encountered. If auger refusal occurs, then the Licensed Professional Engineer must demonstrate the depth to a water bearing unit from the available site specific or regional information.

C) If the evaluation fails to demonstrate to the Agency that a groundwater investigation should not be required as part of site classification activities, the Licensed Professional Engineer shall perform a groundwater investigation in accordance with the remainder of this subsection (j).

D) If the evaluation demonstrates to the Agency that a groundwater investigation should not be required, then the site shall be classified as "Low Priority", unless other High Priority criteria are present. Upon Agency approval of the evaluation to demonstrate that a groundwater investigation should not be required, the site shall be classified as "Low Priority" and a "No Further Remediation" letter shall be issued to the owner or operator of the site, unless other High Priority criteria are present.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells

a) Soil boring logs shall be kept for all soil borings. The logs shall be submitted along with the site classification completion report and shall be on forms prescribed and provided by the Agency ~~or--in--a similar-format-containing-the-same-information.~~

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- 1) Soil boring logs shall contain the following information at a minimum:

- A) Sampling device, sample number and amount of recovery;
- B) Total depth of boring to the nearest 6 inches;
- C) Detailed field observations describing materials encountered in boring, including soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;

- D) Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);

- E) Locations of sample(s) used for physical or chemical analysis; and

- F) Groundwater levels while boring and at completion.

- 2) Boring logs for soil boring(s) completed for physical soil classification also shall include the following information, as applicable for the classification method chosen, for each stratigraphic unit encountered at the site:

- A) Moisture content;
- B) Unconfined compression strength in tons per square foot (TSF) using a hand penetrometer; and
- C) Unified Soil Classification System (USCS) soil classification group symbol in accordance with ASTM Standard D 2487-93 2487-90, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.

- b) Boreholes and monitoring wells shall be abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120.

Section 732.309 Site Classification Completion Report

- a) Within 30 days after the completion of a site evaluation in accordance with Section 732.307, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by Section 732.307, as well as the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions. The report shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information~~, shall be signed by the owner or operator, and shall contain the certification of a Licensed Professional Engineer of the site's classification as "No Further Action," "Low Priority" or "High Priority" in accordance with this Subpart C.
- b) The Agency shall have the authority to review and approve, reject or

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require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.310 Indicator Contaminants

- a) For purposes of this Part, the term "indicator contaminants" shall mean the parameters listed in subsections (b) through (g) of this Section below.

- b) For gasoline, including but not limited to leaded, unleaded, premium and gasohol, the indicator contaminants shall be benzene, ethylbenzene, toluene and total xylenes. For leaded gasoline, lead shall also be an indicator contaminant.

- c) For aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils, cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions and heavy oils, the indicator contaminants shall be benzene, ethylbenzene, toluene, and total xylenes and the polynuclear aromatics listed in Appendix A. For leaded aviation turbine fuels, lead shall also be an indicator contaminant.

- d) For transformer oils the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, the polynuclear aromatics listed in Appendix B and the polychlorinated biphenyl parameters listed in Appendix B.

- e) For hydraulic fluids the indicator contaminants shall be benzene, ethylbenzene, toluene, and total xylenes, the polynuclear aromatics listed in Appendix B and barium.

- f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic naphthas, moderately volatile hydrocarbon solvents and petroleum extender oils, the indicator contaminants shall be the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

- g) For used oil the indicator contaminants shall be determined by the results of a used oil soil sample analysis. Prior to the submission of a site classification plan the owner or operator shall collect a grab sample from a location representative of soil contaminated by a release from the used oil UST. If an area of contamination cannot be identified, the sample shall be collected from beneath the used oil UST. The sample shall be analyzed for:

- 1) All volatile, base/neutral, polynuclear aromatic and metal parameters listed at Appendix B and any other parameters the Licensed Professional Engineer suspects may be present based on UST usage. The Agency may add degradation products or mixtures

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of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

- 2) The used oil indicator contaminants shall be those volatile, base/neutral, polynuclear aromatic and metal parameters listed at Appendix B or as otherwise identified at subsection (a) of this Section above that exceed their cleanup objective at ~~Appendix-B~~ 35 Ill. Adm. Code 742 or as determined by the Agency in addition to benzene, ethylbenzene, toluene, total xylenes and PNAs.
- 3) If none of the parameters exceed their cleanup objective, the used oil indicator contaminants shall be benzene, ~~BTEX~~ ethylbenzene, toluene, total xylenes and PNAs and the polynuclear aromatics listed in Appendix B.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.311 Indicator Contaminant Groundwater Objectives

For purposes of this Part, indicator contaminant groundwater quality standards shall be the groundwater objectives specified in ~~Appendix-B~~ 35 Ill. Adm. Code 742 for the applicable indicator contaminants. For mixtures and degradation products that have been included as indicator contaminants in accordance with Section 732.310 of this Part, the Agency shall determine groundwater objectives on a site-by-site basis.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.312 Classification by Exposure Pathway Exclusion

- a) An owner or operator electing to classify a site by exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subparts C or I shall meet the requirements of this Section.

- 1) Such election shall be made in writing by the owner or operator as part of the submission of the site classification plan under subsection (c) of this Section.

- 2) An owner or operator who chooses to revoke an election submitted under subsection (c) of this Section shall do so in writing.

- b) Upon completion of early action requirements pursuant to Subpart B of this Part, the owner or operator shall determine whether the areas or locations addressed under early action (e.g., backfill) meet the requirements applicable for a Tier I evaluation pursuant to 35 Ill. Adm. Code 742, Subpart E.

- 1) If the remediation objectives have been met, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels.

- 2) If the remediation objectives have not been met, evaluation shall continue in accordance with subsection (c) of this Section.

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- c) If, upon completion of early action requirements pursuant to Subpart B of this Part, the requirements under subsection (b) of this Section have not been met, then the owner or operator, prior to conducting any site evaluation activities, shall submit to the Agency a site classification plan including, but not limited to, a physical soil classification, contaminant identification, and groundwater investigation plan (if applicable in accordance with Section 732.300(b)(1)), satisfying the minimum requirements for site evaluation activities as set forth in this Section. Site classification plans shall be submitted on forms prescribed and provided by the Agency. The plans shall be designed to:
 - 1) Determine the full extent of soil or groundwater contamination exceeding remediation objectives for Tier I sites under 35 Ill. Adm. Code 742, Subpart E. Such activities may include soil borings with sampling and analysis, groundwater monitoring wells with sampling and analysis, groundwater modeling, or a combination of these activities.
 - 2) Collect data sufficient to determine which, if any, of the applicable exposure routes under 35 Ill. Adm. Code 742 can be excluded pursuant to 35 Ill. Adm. Code 742, Subparts C or I.

- d) A Licensed Professional Engineer (or, where appropriate, persons working under the direction of a Licensed Professional Engineer) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer.

- e) As a part of each site evaluation, the Licensed Professional Engineer shall conduct physical soil classification and contaminant identification in accordance with the procedures at subsection (c) of this Section.

- f) In addition to the plan required in subsection (c) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency:
 - 1) An application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part, except as provided in subsection (f)(2) of this Section; and
 - 2) A site classification budget plan, which shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and a line item estimate of all costs associated with the development, implementation and completion of the site evaluation activities required under subsection (c) of this Section.

- g) Sites shall be classified as "No Further Action" if all applicable exposure routes can be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subparts C or I.

- h) Sites shall be classified as "High Priority" if any of the applicable exposure routes cannot be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subparts C or I.

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to 35 Ill. Adm. Code 742, Subparts C or I.

- i) Within 30 days after the completion of a site evaluation in accordance with this Section, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by this Section, as well as the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions. The report shall be submitted on forms prescribed and provided by the Agency, shall be signed by the owner or operator, and shall contain the certification of a Licensed Professional Engineer of the site's classification as "No Further Action", or "High Priority" in accordance with this Section. For any site classified as "High Priority", the report shall also contain the certification of a Licensed Professional Engineer as to which exposure routes, if any, have been excluded from further consideration under 35 Ill. Adm. Code 742, Subpart C.

- j) The Agency shall have the authority to review and approve, reject or require modification of any plan or report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

- k) Notwithstanding subsections (c) and (f) of this Section, an owner or operator may proceed to conduct site evaluation activities in accordance with this Section prior to the submittal or approval of any otherwise required site classification plan and associated budget plans. However, any plan shall be submitted to the Agency for review and approval in accordance with the procedures contained in Subpart E prior to receiving payment or reimbursement for any related costs or the issuance of a "No Further Remediation" letter.

- l) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject or require modification of the amended plan in accordance with the procedures contained in Subpart E of this Part. BOARD NOTE: Owners or operators proceeding under subsection (a)(2) or (k) of this Section are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART D: CORRECTIVE ACTION

Section 732.400 General

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- a) Following approval of the site evaluation and classification by the Agency ~~or-by-operation-of-law~~ pursuant to Subpart C of this Part and except as provided in subsection (b) or (c) of this Section below, the owner or operator of a UST system subject to the requirements of this Part shall develop and submit a corrective action plan and perform corrective action activities in accordance with the procedures and requirements contained in this Subpart D.
- b) Owners or operators of sites classified in accordance with the requirements of Subpart C as "No Further Action" may choose to conduct remediation objectives referenced in Section 732.408 of this Part.
- c) Owners or operators of sites classified in accordance with the requirements of Subpart C as "Low Priority" may choose to conduct remediation sufficient to satisfy the remediation objectives referenced in Section 732.408 of this Part. Any owner or operator choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall so notify the Agency in writing prior to conducting such efforts. Upon completion of the remediation activities, owners or operators choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall submit a corrective action completion report to the Agency demonstrating compliance with the required levels. Upon approval of the corrective action completion report by the Agency ~~or-by-operation-of-law~~ in accordance with Subpart E, a "No Further Remediation" letter shall be issued by the Agency. BOARD NOTE: Owners or operators proceeding under subsection (b) or (c) of this Section ~~above~~ are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.402 "No Further Action" Site

The owner or operator of a site that has been certified as a "No Further Action" site by a Licensed Professional Engineer and approved as such by the Agency ~~or-by-operation-of-law~~ shall have no additional remediation responsibilities beyond those performed pursuant to Subparts B or C of this Part. Unless the Agency takes action to reject or modify the site classification completion report within 120 days after receipt of the completion report pursuant to Section 732.309, or Section 732.312, the site classification completion report is rejected by operation of law. ~~the-Agency shall-issue-to-the-owner-or-operator-within-120-days-after-the-receipt-of-a-complete-report-a-"No-Further-Remediation"-letter-in-accordance-with-Section-732.410.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 732.403 "Low Priority" Site

a) The owner or operator of a site that has been certified as a "Low Priority" site by a Licensed Professional Engineer and approved as such by the Agency ~~or by operation of law~~ shall develop a groundwater monitoring plan and perform groundwater monitoring in accordance with the requirements of this Section.

b) The owner or operator of a site certified as "Low Priority" by a Licensed Professional Engineer and approved as such by the Agency ~~or by operation of law~~ shall develop a groundwater monitoring plan designed to satisfy the following requirements at a minimum:

1) Groundwater monitoring shall be conducted for a period of three years following the Agency's approval of the site classification, unless subsection (b)(6) or subsection (i) of this Section applies;

2) Groundwater monitoring wells shall be placed at the property line or 200 feet from the UST system, whichever is closer. The wells shall be placed in a configuration designed to provide the greatest likelihood of detecting migration of groundwater contamination. In the event that a groundwater monitoring well cannot physically be installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection, the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than the rule requires. However, once the election is made the owner or operator may not withdraw the election at a later time;

3) Groundwater monitoring wells shall satisfy the requirements at Sections 732.307(j)(3) and 732.307(j)(4) of this Part;

4) During the first year of groundwater monitoring, samples from each well shall be collected and analyzed on a quarterly basis. During the second year of groundwater monitoring, samples from each well shall be collected and analyzed during the second and fourth quarters. During the third and final year of groundwater monitoring, at a minimum, samples from each well shall be collected and analyzed in the fourth quarter;

5) To determine whether groundwater quality standards or Agency approved objectives have been exceeded, samples for groundwater monitoring shall be collected and analyzed in accordance with the procedures set forth in Section 732.307(j)(5) of this Part for the applicable indicator contaminants determined pursuant to Section 732.310 of this Part.

6) The owner or operator may use groundwater monitoring data that has been collected up to 3 years prior to the site being certified as "Low Priority", if the data meets the requirements of subsections (b)(2) through (b)(5) of this Section. This data

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may be used to satisfy all or part of the three year period of groundwater monitoring required under this Section.

c) Prior to the implementation of groundwater monitoring, except as provided under subsection (b)(6) of this Section, the owner or operator shall submit the groundwater monitoring plan to the Agency for review in accordance with Section 732.405. If the owner or operator intends to seek payment from the Fund, a groundwater monitoring budget plan also shall be submitted to the Agency for review. The groundwater monitoring budget plan shall include a line item estimate of all costs associated with the implementation and completion of the groundwater monitoring plan. Groundwater monitoring plans and budgets shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information~~.

d) Groundwater analysis results obtained pursuant to subsection (b) of this Section ~~above~~ shall be submitted to the Agency within 30 days after the end of each annual sampling period on forms prescribed and provided by the Agency, except as provided under subsection (b)(6) of this Section. Groundwater analysis data being used pursuant to subsection (b)(6) shall be submitted to the Agency as part of a "Low Priority" groundwater monitoring plant or the "Low Priority" groundwater monitoring completion report ~~or in a similar format containing the same information~~.

1) The information to be collected shall include but not be limited to the information set forth in Section 732.307(j)(5) of this Part.

2) If at any time the groundwater analysis results indicate a confirmed exceedance of the applicable indicator contaminant groundwater quality standards or Agency approved objectives as a result of the underground storage tank release of petroleum, the owner or operator shall notify the Agency of the exceedance within 30 days and provide supporting documentation of the nature and extent of the exceedance.

3) Indicator contaminant groundwater quality standards shall be determined in accordance with Section 732.311 of this Part.

e) Within 30 days after the completion of the "Low Priority" groundwater monitoring plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report in accordance with Section 732.409 of this Part. If there is no confirmed exceedance of applicable indicator contaminant objectives during the three year groundwater monitoring period, the report shall contain a certification to that effect by a Licensed Professional Engineer.

f) The Agency shall review the groundwater monitoring completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a "No Further Remediation" letter to the owner or operator in accordance with Subpart G ~~Section 732.410~~ upon approval of the report by the Agency ~~or by operation of law~~. If the owner or operator elects to appeal an Agency action to disapprove, modify, or reject by operation of law a Low Priority groundwater monitoring

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completion report, the Agency shall indicate to the Board in conjunction with such appeal whether it intends to reclassify the site as High Priority.

- g) If at any time groundwater analysis results indicate a confirmed exceedence of applicable indicator contaminant objectives, the Agency may reclassify the site any time before the Agency's final approval of a Low Priority groundwater monitoring completion report as a "High Priority" site within 60 days after the receipt of an annual groundwater sampling report, a groundwater monitoring completion report, or a notification by the owner or operator pursuant to subsection (d)(2) above. The Agency shall notify the owner or operator in writing if a site is reclassified. Notice of reclassification shall be by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. Any action by the Agency to reclassify the site as a "High Priority" site shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.
- h) The owner or operator of a "Low Priority" site reclassified to "High Priority" pursuant to subsection (g) of this Section above shall develop and submit for Agency approval a "High Priority" corrective action plan satisfying the requirements of Section 732.404 of this Part within 120 days after receiving the notice of reclassification. If the owner or operator intends to seek reimbursement from the Fund, a corrective action plan budget also shall be submitted within 120 days after receiving the notice of reclassification.

- i) The owner or operator of a site classified as "Low Priority" by a Licensed Professional Engineer, as a result of a demonstration approved by the Agency under Section 732.307(j)(6), shall evaluate the potential for exceedence of applicable indicator contaminant objectives to occur during the succeeding three years.

1) Following completion of the site specific evaluation, the owner or operator shall prepare a report in accordance with Section 732.409 of this Part, which supports the issuance of a "No Further Remediation" letter or reclassification of the site as a "High Priority" site.

- 2) In the event the site is reclassified as a "High Priority" site, the owner or operator shall develop and submit for Agency approval a "High Priority" corrective action plan in accordance with Section 732.403(h).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.404 "High Priority" Site

- a) The owner or operator of a site that has been certified by a Licensed

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Professional Engineer as a "High Priority" site and approved as such by the Agency or by operation of law shall develop a corrective action plan and perform corrective action in accordance with the requirements of this Section. The purpose of the corrective action plan shall be to remediate or eliminate each of the criteria set forth in subsection (b) of this Section below that caused the site to be classified as "High Priority."

- b) The owner or operator of a site certified as "High Priority" by a Licensed Professional Engineer and approved as such by the Agency or by operation of law or reclassified as "High Priority" by the Agency pursuant to Section 732.403(g) shall develop a corrective action plan based on site conditions and designed to achieve the following as applicable to the site:

1) For sites submitting a site classification report under Section 732.309:

- A) Provide that, after complete performance of the corrective action plan, applicable indicator contaminant objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation. If an adjoining property owner will not allow the owner/operator access to his or her property so as to ascertain information sufficient to satisfy this requirement, or if the owner cannot be located, adequate documentation of the owner/operators' efforts to gain access to the property shall satisfy this subsection;

- B) Provide that, after complete performance of the corrective action plan, Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the UST system are not exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation;

- C) Remediate threats due to the presence or migration, through natural or manmade pathways, of petroleum in concentrations sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

- D) Remediate threats to potable water supplies; and

- E) Remediate threats to bodies of surface water.

2) For sites submitting a site classification completion report under Section 732.312, provide that, after complete performance of the corrective action plan, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 763.408 for any applicable exposure route not excluded from consideration under Section 732.312.

- 3) Where there has been no reliance on an engineered barrier to achieve compliance with remediation objectives developed under

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Section 732.408, compliance with remediation objectives shall be demonstrated as follows:

- A) For groundwater remediation objectives:
 - i) Except as provided in subsection (ii) of this Section, or Section 732.307(j)(3) where there is a physical barrier, sampling points shall be located at the property boundary line or 200 feet from the UST system, whichever is less.
 - ii) If an institutional control prohibiting the use of groundwater as a potable supply is obtained under 35 Ill. Adm. Code 742.Subpart J, sampling points shall be located at the property boundary line.
 - iii) Compliance with groundwater remediation objectives at applicable sampling points shall be determined in accordance with 35 Ill. Adm. Code 742.225.
- B) For soil remediation objectives:
 - i) Following site classification under this Part, sampling points shall be located on the site in areas where concentrations of indicator contaminants exceed remediation objectives.
 - ii) Compliance with soil remediation objectives at applicable sampling points shall be determined in accordance with 35 Ill. Adm. Code 742.225.
- 4) Where an engineered barrier has been relied upon to achieve compliance with remediation objectives developed under Section 732.408, compliance shall be determined based on approval by the Agency of the sufficiency of the engineered barrier.
- c) In developing the corrective action plan, if the Licensed Professional Engineer selects soil or groundwater remediation, or both, to satisfy any of the criteria set forth in subsection (b) of this Section above, remediation objectives shall be determined in accordance with Section 732.408 of this Part. Groundwater monitoring wells shall satisfy the requirements of Sections 732.307(j)(3) and 732.307(j)(4) of this Part.
- d) Except where provided otherwise pursuant to Section 732.312, in developing the corrective action plan, additional investigation activities beyond those required for the site evaluation and classification may be necessary to determine the full extent of soil or groundwater contamination and of threats to human health or the environment. Such activities may include, but are not limited to, additional soil borings with sampling and analysis or additional groundwater monitoring wells with sampling and analysis. Such activities as are technically necessary and consistent with generally accepted engineering practices may be performed without submitting a work plan or receiving prior approval from the Agency, and associated costs may be included in a "High Priority" corrective action budget plan. A description of these activities and the results shall be included as a part of the corrective action plan.
- e) The owner or operator shall submit the corrective action plan to the

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Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a corrective action plan budget also shall be submitted to the Agency for review. The corrective action plan budget shall include a line item estimate of all costs associated with the implementation and completion of the corrective action plan. The corrective action plan and corrective action budget shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information.~~

- f) Within 30 days after completing the performance of the "High Priority" corrective action plan, the owner or operator shall submit to the Agency a corrective action completion report in accordance with Section 732.409 of this Part.
- g) Within 120 days, the Agency shall review the corrective action completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a "No Further Remediation" letter to the owner or operator in accordance with Subpart G Section 732.410 upon approval by the Agency ~~or by operation of law.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.405 Plan Submittal and Review

- a) Prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Agency a "Low Priority" groundwater monitoring plan or a "High Priority" corrective action plan satisfying the minimum requirements for such activities as set forth in Sections 732.403 or 732.404 of this Part, as applicable. Groundwater monitoring and corrective action plans shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information.~~
- b) In addition to the plans required in subsection (a) of this Section above and prior to conducting any groundwater monitoring or corrective action activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a groundwater monitoring or corrective action budget plan. Such budget plans shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and a line item estimate of all costs associated with the development, implementation and completion of the applicable activities. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part. Groundwater monitoring and corrective action budget plans shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information.~~
- c) The Agency shall have the authority to review and approve, reject or require modification of any plan submitted pursuant to this Section in

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d) accordance with the procedures contained in Subpart E of this Part. Notwithstanding subsections (a) and (b) of this Section ~~above~~ and except as provided at Section 732.407 of this Part, an owner or operator may proceed to conduct "Low Priority" groundwater monitoring or "High Priority" corrective action activities in accordance with this Subpart D prior to the submittal or approval of an otherwise required groundwater monitoring plan or budget or corrective action plan or budget. However, any such plan shall be submitted to the Agency for review and approval, rejection or modification in accordance with the procedures contained in Subpart E of this Part prior to payment or reimbursement for any related costs or the issuance of a "No Further Remediation" letter.

BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

e) If, following approval of any groundwater monitoring plan, corrective action plan or associated budget plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended groundwater monitoring plan, corrective action plan or associated budget plan for review by the Agency. The Agency shall review and approve, reject or require modifications of the amended plan in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.406 Deferred Corrective Action; Priority List for Payment

a) ~~An Notwithstanding any other provision or rule of law with the exception of the early action requirements of Subpart B of this Part the owner or operator who has received approval for submitted any budget plan submitted pursuant to this Part and who is eligible for payment from the underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met. Shall be eligible to elect to commence corrective action upon the availability of funds. Such election shall be made in writing to the Agency within 30 days of receipt of Agency approval of a budget plan. The Agency shall provide notice to the owner or operator at such time as it approves the budget plan. Whether sufficient resources are available in order to immediately commence the approved measures. (Section 57.8(b) of the Act)~~

1) Approvals of budget plans shall be pursuant to Agency review or by operation of law in accordance with Subpart E of this Part.

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2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment in an amount equal to the total of the approved budget plans and shall provide notice to owners or operators of the availability of funds in accordance with Section 732.503(h). Funds shall not be deemed available for owners or operators electing to defer corrective action so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.

3) Upon receiving written notification that an owner or operator elects to defer corrective action until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment and move up based solely on the date the Agency receives the written election notification of deferral, with the earliest dates having the highest priority. The Agency's record of the date of receipt shall be deemed conclusive, unless a contrary date is proven by a dated, signed receipt from registered or certified mail.

4) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner's or operator's site. After such notification the owner or operator shall commence corrective action.

5) Authorization of payment of encumbered funds for deferred corrective action activities shall be approved in accordance with the requirements of Subpart F of this Part.

6) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred site classification pursuant to Section 732.306 with both types of deferrals entering the list and moving up solely on the basis of the date the Agency receives written notice of the deferral.

b) An owner or operator who elects to defer site classification, low priority groundwater monitoring, or remediation activities under subsection (a) of this Section shall submit a report certified by a Licensed Professional Engineer demonstrating the following:

- 1) The early action requirements of Subpart B of this Part have been met; and
- 2) The release does not pose a threat to human health or the environment through migratory pathways. ~~Should the Agency or owner or operator determine a threat to human health and/or the environment requires immediate action including the existence of petroleum or vapors which threaten human health or human safety or may cause explosions in basements, vaults or other confined conduits, storm or sanitary sewers, vaults or other confined~~

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~~spaces--the-election-to--commence--corrective--action-upon-the-availability-of-funds-shall-not-be-available--the-Agency--shall-notify-the-owner-or-operator-by-certified-mail-that-a-situation-exists-that-would-preclude-the-owner-or-operator-from--commencing-corrective-action-upon-the-availability-of-funds--Such-action-by-the-Agency--shall-not-be-subject-to-appeal~~ (Section 57.8(b) of the Act)

- c) An owner or operator may withdraw the election to commence corrective action upon the availability of funds at any time. The Agency shall be notified in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with corrective action in accordance with the requirements of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.407 Alternative Technologies

- a) An owner or operator may choose to use an alternative technology for corrective action in response to a release of petroleum at a "High Priority" site. Corrective action plans proposing the use of alternative technologies shall be submitted to the Agency in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action plans contained in Section 732.404, the owner or operator who seeks approval of an alternative technology shall submit documentation along with the corrective action plan demonstrating that:

- 1) The proposed alternative technology has a substantial likelihood of successfully achieving compliance with all applicable regulations and all corrective action remediation objectives necessary to comply with the Act and regulations and to protect human health or the environment;
- 2) The proposed alternative technology will not adversely affect human health or the environment;
- 3) The owner or operator will obtain all Agency permits necessary to legally authorize use of the alternative technology;
- 4) The owner or operator will implement a program to monitor whether the requirements of subsection (a)(1) of this Section above have been met; and
- 5) Within one year from the date of Agency approval the owner or operator will provide to the Agency monitoring program results establishing whether the proposed alternative technology will successfully achieve compliance with the requirements of subsection (a)(1) of this Section above and any other applicable regulations. The Agency may require interim reports as necessary to track the progress of the alternative technology. The Agency will specify in the approval when those interim reports shall be submitted to the Agency.

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- b) An owner or operator intending to seek payment or reimbursement for costs associated with the use of an alternative technology shall submit a corresponding budget plan in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action budget plans at Section 732.404 of this Part, the budget plan must demonstrate that the cost of the alternative technology will not exceed the cost of conventional technology.
- c) If an owner or operator has received approval of a corrective action plan and associated budget plan from the Agency ~~or-by-operation-of-law~~ prior to implementing the plan and the alternative technology fails to satisfy the requirements of subsections (a)(1) or (a)(2) of this Section above, such failure shall not make the owner or operator ineligible to seek payment or reimbursement for the activities associated with the subsequent performance of a corrective action using conventional technology. However, in no case shall the total payment or reimbursement for the site exceed the statutory maximums. Owners or operators implementing alternative technologies without obtaining pre-approval shall be ineligible to seek payment or reimbursement for the subsequent performance of a corrective action using conventional technology.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.408 Risk-Based Remediation Objectives

- a) For sites requiring "High Priority" corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.300(b), 732.400(b), or 732.400(c) of this Part, the owner or operator shall propose ~~may-propose~~ remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code ~~742 based-on-a-site-assessment-of-risk. In-support-of--site--specific-remediation-objectives--the-owner-or-operator-shall-demonstrate-to-the-Agency-that-the-proposed-objectives-will-be-protective-of-human-health-and-the-environment.~~
- i) Except-as-provided--in--subsection--(a)(2)--below--the-owner-or-operator-may-propose-site-specific--remediation-objectives--for-applicable-indicator-contaminants.
- 2) For-applicable-indicator-contaminants--that-have-a-groundwater-quality-standard-promulgated-pursuant-to-35-ill.-Adm.-Code--6297-site-specific-groundwater-remediation-objectives-may-be-proposed-so-as-to-achieve-groundwater-quality-standards-established-pursuant-to-and-using-the-procedures-approved-under-35-ill.-Adm.-Code-6297.
- b) In-reviewing--a--proposal--for--a-site-specific-remediation-objectives-pursuant-to-subsection-(a)(1)-above-the-Agency--shall-evaluate--the-following-factors:
- i) the-potential--for--any--remaining-contaminants--to--pose--a

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- significant threat to human health or the environment.
- 2) Circumstances related to the practicality of remediation.
- 3) The management of risk relative to any remaining contamination.
- 4) Background levels for the applicable indicator contaminants, and
- 5) Appropriateness of the scientific methodology selected as a basis for the demonstration of protectiveness and correct application of the methodology. Methodologies adopted by a nationally recognized entity such as the American Society for Testing and Materials (ASTM), or an equivalent methodology, shall be acceptable for use as a basis for the demonstration of protectiveness.
- c) For sites requiring "High Priority" corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.300(b) or 732.400(b) or 732.400(c) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (a) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency, the Agency shall determine remediation objectives on a site-by-site basis.
- BOARD NOTE: The remediation objectives contained in Appendix B are not soil or groundwater standards. The remediation objectives contained in Appendix B of this Part are not remediation objectives for purposes of remediation of releases other than BUST releases pursuant to this Part 732.
- d) The election to proceed under either subsection (a) or (c) above does not prohibit the owner or operator from exercising the other option at a later time.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports

- a) Within 30 days after completing the performance of a "Low Priority" groundwater monitoring plan or "High Priority" corrective action plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report or a corrective action completion report.
- 1) The "Low Priority" groundwater monitoring completion report shall include, but not be limited to, a narrative describing the implementation and completion of all elements of the groundwater monitoring plan and the procedures used for collection and analysis of samples, analytical results in tabular form, actual analytical results, laboratory certification and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the

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- requirements of the Act and regulations have been satisfied and that no further remediation is required at the site.
- 2) The "High Priority" corrective action completion report shall include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the corrective action plan and the procedures used for the collection and analysis of samples, soil boring logs, actual analytical results, laboratory certification, site maps, well logs and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site. A "High Priority" corrective action completion report shall demonstrate the following:

- A) For sites submitting a site classification report under Section 732.309,

i) Applicable indicator contaminant groundwater objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;

ii) Class III resource groundwater quality standards, for Class III special use resource groundwater within 200 feet of the UST system are not exceeded as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;

iii) The release of petroleum does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways, of petroleum in concentration sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

iv) The release of petroleum does not threaten any surface water body; and

v) The release of petroleum does not threaten any potable water supply.

- B) For sites submitting a site classification completion report under Section 732.312, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 732.408 for any applicable exposure route not excluded from further consideration under Section 732.312.

- b) The applicable report shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information~~, shall be signed by the owner or operator, and shall be accompanied by a certification from a Licensed Professional Engineer

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that the information presented in the applicable report is accurate and complete, that groundwater monitoring or corrective action have been completed in accordance with the requirements of the Act and this Subpart D, and that no further remediation is required at the site.

- c) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.410 "No Further Remediation" Letter (Repealed)

- a) Upon approval by the Agency or by operation of law of a "No-Further Action" site classification report or a "High-Priority" groundwater monitoring completion report or a "High-Priority" corrective action completion report, the Agency shall issue to the owner or operator a "no further remediation" letter, the "no further remediation" letter shall have the legal effect prescribed in Section 57.10 of the Act. The "no further remediation" letter shall be denied if the Agency rejects or requires modification of the applicable report.
- b) The Agency shall have 120 days from the date of receipt of a complete report to issue a "no further remediation" letter and may include the "no further remediation" letter as part of the notification of approval of the applicable report in accordance with Subpart B of this Part.

- c) If an applicable report is approved by operation of law pursuant to Subpart B of this Part and a "no further remediation" letter is not received from the Agency, the legal presumptions prescribed by Section 57.10 of the Act also shall become effective by operation of law.
- d) The notice of denial of a "no further remediation" letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 30 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

SUBPART E: SELECTION AND REVIEW PROCEDURES FOR PLANS AND REPORTS

Section 732.501 Submittal of Plans or Reports

All plans or reports shall be made on forms prescribed and provided by the Agency or in a similar format containing the same information. Plans or reports shall be mailed or delivered to the address designated by the Agency.

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The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.502 Completeness Review

- a) The Agency shall review for completeness all plans submitted pursuant to this Part 732. The completeness review shall be sufficient to determine whether all information and documentation required by the Agency form for the particular plan are present. The review shall not be used to determine the technical sufficiency of a particular plan or of the information or documentation submitted along with the plan.
- b) The Agency shall have 45 days from the receipt of a plan to finish the completeness review. If the completeness review finds that the plan is complete, the Agency shall so notify the owner or operator in writing and proceed, where appropriate, to approval, rejection or modification of the substantive portions of the plan. If the completeness review finds that the plan is incomplete, the Agency shall notify the owner or operator in writing. The notification shall include an explanation of the specific type of information or documentation that the Agency deems necessary to complete the plan.
- 1) The Agency may, to the extent consistent with Agency deadlines, provide the owner or operator with a reasonable opportunity to correct deficiencies prior to a final determination on completeness.
- 2) The Agency shall mail notice of incompleteness by registered or certified mail, post marked with a date stamp and with return receipt requested. The decision shall be deemed to have taken place on the post marked date that such notice is mailed.
- 3) All time limits for Agency final action on a plan or report shall be calculated from the date the Agency receives a plan or report. Receipt of an amended plan or report, after a notice of incompleteness, shall restart all time limits for Agency final action on that plan or report.

- c) Any budget plan submitted must be preceded or accompanied by an associated technical plan in order for the budget plan to be deemed complete.
- d) The failure of the Agency to notify an owner or operator within 45 days that a plan is either complete or incomplete shall result in the plan being deemed complete by operation of law. Any action by the Agency pursuant to this Section shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.503 Full Review of Plans or Reports

- a) In addition to the completeness review for plans conducted pursuant to Section 732.502, the Agency may conduct a full review of plans or reports selected in accordance with the requirements of Section 732.504. A full review may include any or all technical or financial information, or both, relied upon by the owner or operator or Licensed Professional Engineer in developing the plan or report selected for review. The full review also may include the review of any other plans or reports submitted in conjunction with the site.
- b) The Agency shall have the authority to approve, reject or require modification of any plan or report that has been given a full review. The Agency shall notify the owner or operator in writing of its final action on any such plan or report. Except as provided in subsections (c) and (d) of this Section below, if the Agency fails to notify the owner or operator of its final action on a plan or report within 120 days after the receipt of a plan or report, the owner or operator may deem the plan or report rejected approved by operation of law, except in the case of 20 day, 45 day or free product reports, in which case no notification is necessary. If the Agency rejects a plan or report or requires modifications, the written notification shall contain the following information, as applicable:

- 1) An explanation of the specific type of information, if any, that the Agency needs to complete the full review;
 - 2) An explanation of the Sections of the Act or regulations that may be violated if the plan or report is approved; and
 - 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan or report is approved.
- c) For "High Priority" corrective action plans submitted by owners or operators not seeking reimbursement from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrective action completion report required pursuant to Section 732.409 of this Part.
- d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan or report by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 60 days.
- e) The Agency shall mail notices of final action on plans or reports by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed.
- f) Any action by the Agency to reject or require modification, or rejection by failure to act, of a plan or report shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40

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of the Act. If the Any owner or operator elects may-elect to incorporate modifications required by the Agency rather than appeal and-shall-do-so-by-submitting a revised plan or report shall be submitted to the Agency within 35 30 days after the receipt of the Agency's written notification. If no revised plan or report is submitted to the Agency or no appeal to the Board filed within the specified time frames, the plan or report shall be deemed approved as modified by the Agency.

g) Notification of Selection for Full Review

1) Owners or operators submitting plans shall be notified by the Agency within 60 days from the date the plan is deemed complete if the plan has not been received-whether-or-not-the-plan-has been selected for full review in accordance with Section 732.504 of this Part. Failure of the Agency to so notify the owner or operator shall mean that the plan has been selected for full review. Notification or-notification by the Agency that the plan has not been selected for full review shall constitute approval of the plan by-operation-of-law.

2) Owners or operators submitting reports shall be notified by the Agency within 60 days after the receipt of the report if the report has not been whether-or-not-the-report-has-been selected for full review in accordance with Section 732.504 of this Part, except in the case of 20 day, 45 day or free product reports, in which case no notification of selection is necessary. Failure of the Agency to so notify the owner or operator shall mean that the report has been selected for full review. Notification or notification by the Agency that the report has not been selected for full review shall constitute approval of the report by operation-of-law.

- 3) Notice shall be sent and the date of notification shall be computed in accordance with subsection (e) of this Section above.
- h) In accordance with Sections 732.306 and 732.406 of this Part, upon the approval of any budget plan by the Agency or-by-operation-of-law, the Agency shall include as part of the final notice to the owner or operator a statement of whether or not the Fund contains sufficient resources in order to immediately commence the approved measures.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART F: PAYMENT OR REIMBURSEMENT

Section 732.601 Applications for Payment

- a) An owner or operator seeking payment from the Fund shall submit to the Agency an application for payment on forms prescribed and provided by the Agency or-in-a-similar-format-containing-the-same-information. The owner or operator may submit an application for partial payment or

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final payment for materials, activities or services contained in an approved budget plan. An application for payment also may be submitted for materials, activities or services for early action conducted pursuant to Subpart B of this Part and for which no budget plan is required.

b) A complete application for payment shall consist of the following elements:

- 1) A certification from a Licensed Professional Engineer acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency ~~or-by-operation-of-law~~ or, for early action activities, in accordance with Subpart B;
 - 2) A statement of the amount approved in the corresponding budget plan and the amount actually sought for payment along with a certified statement by the owner or operator that the amount so sought has been expended in conformance with the elements of a budget plan approved by the Agency ~~or-by-operation-of-law~~;
 - 3) A copy of the OSFM or Agency eligibility and deductibility determination;
 - 4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;
 - 5) A federal taxpayer identification number and legal status disclosure certification;
 - 6) A Private Insurance Coverage form; and
 - 7) A Minority/Women's Business Usage form.
- c) Applications for payment shall be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
- d) Applications for partial or final payment may be submitted no more frequently than once every 90 days.
- e) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, in no case shall the Agency review an application for payment unless there is an approved budget plan on file corresponding to the application for payment.
- f) In no case shall the Agency authorize payment to an owner or operator in an amount greater than the amount approved by the Agency ~~or-by-operation-of-law~~ in a corresponding budget plan. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart E of this Part using amended budget plans in accordance with Sections 732.305(e) or 732.405(e) of this Part.
- g) Applications for payment of costs associated with site classification may not be submitted prior to approval or modification of the site classification completion report.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 732.602 Review of Applications for Payment

- a) The Agency shall conduct a review of any application for payment submitted pursuant to this Part 732. Each application for payment shall be reviewed to determine whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part and whether the amounts sought for payment have been certified in accordance with Section 732.601(b)(2) of this Part as equal to or less than the amounts approved in the corresponding budget plan. Any action by the Agency pursuant to this subsection shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.
- b) The Agency may conduct a full review of any application for payment:
- 1) If the amounts sought for payment exceed the amounts approved in the corresponding budget plan;
 - 2) If the Agency has reason to believe that the application for payment is fraudulent; or
 - 3) If the application for payment includes costs for early action activities conducted pursuant to Subpart B of this Part and either of the following circumstances exist:
 - A) The application for payment is solely for early action costs that have not been approved as part of a prior budget plan; or
 - B) The application for payment includes early action costs that have not been approved as part of a prior budget plan, except that only the portion of the application for the unapproved early action costs may be given a full review.
- c) When conducting a full review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in subsection (d) of this Section below.
- d) A full review of an application for payment shall be sufficient to determine which line items contained in the application for payment have caused the application for payment to exceed the corresponding approved budget plan pursuant to subsection (b)(1) of this Section above, which line items, if any, are ineligible for payment pursuant to subsections (b)(2) or (b)(3) of this Section above, and whether there is sufficient documentation to demonstrate that line items have been completed in accordance with a plan approved by the Agency ~~or-by-operation-of-law~~. A full review may include review of any or all elements and supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The full review also may include the review of any plans or reports previously submitted for the site to ensure that the application for

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payment is consistent with work proposed and actually performed in conjunction with the site.

- e) Following a review, the Agency shall have the authority to approve, deny or require modification of applications for payment or portions thereof. The Agency shall notify the owner or operator in writing of its final action on any such application for payment. Except as provided in subsection (f) of this Section ~~below~~, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment ~~rejected~~ approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification shall contain the following information, as applicable:

- 1) An explanation of the specific type of information, if any, that the Agency needs to complete the full review;
 - 2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and
 - 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.
- f) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 30 days.
- g) The Agency shall mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed.
- h) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If the ~~Any~~ owner or operator elects ~~may elect~~ to incorporate modifications required by the Agency rather than ~~appeal~~ ~~and--shall--do--so--by--submitting~~ a revised application for payment shall be submitted to the Agency within 35 30 days after the receipt of the Agency's written notification. If no revised application for payment is submitted to the Agency or no appeal to the Board is filed within the specified timeframes, the application for payment shall be deemed approved as modified by the Agency and payment shall be authorized in the amount approved.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.603 Authorization for Payment; Priority List

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- a) Within 60 days after notification of an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency shall forward to the Office of the State Comptroller in accordance with subsection (c) or (d) of this Section ~~below~~ a voucher in the amount approved. If the owner or operator has filed an appeal with the Board of the Agency's final decision on an application for payment, the Agency shall have 60 days from the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal. Notwithstanding the time limits imposed by this Section, the Agency shall not forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.
- b) Any deductible, as determined by the OSEFM or the Agency, shall be subtracted from any amount approved for payment by the Agency or by operation of law.
- c) For owners or operators who have deferred site classification or corrective action in accordance with Sections 732.306 or 732.406 of this Part, payment shall be authorized from funds encumbered pursuant to Sections 732.306(a)(4) or 732.406(a)(4) of this Part upon approval of the application for payment by the Agency or by operation of law.
- d) For owners or operators not electing to defer site classification or corrective action in accordance with Sections 732.306 or 732.406 of this Part, the Agency shall form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section ~~above~~.
- 1) All such applications for payment shall be assigned a date that is the date upon which the complete application for partial or final payment was received by the Agency. This date shall determine the owner's or operator's priority for payment in accordance with subsection (d)(2) of this Section ~~below~~, with the earliest dates receiving the highest priority.
 - 2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment shall be assigned priority in accordance with subsection (d)(1) of this Section ~~above~~. The assigned date shall be the only factor determining the priority for payment for those applications approved for payment.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.604 Limitations on Total Payments

- a) Limitations per occurrence:

- 1) The Agency shall not approve any payment from the fund to pay an owner or operator for costs of corrective action incurred by such owner or operator in an amount in excess of \$1,000,000 per occurrence. (Section 57.8(g) of the Act)
- 2) The Agency shall not approve any payment from the fund to pay an

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owner or operator for costs of indemnification of such owner or operator in an amount in excess of \$1,000,000 per occurrence. (Section 57.8(g) of the Act)

b) Aggregate limitations:

- 1) Notwithstanding any other provision of this Part 732, the Agency shall not approve payment to an owner or operator from the fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by such owner or operator in Illinois:

AMOUNT	NUMBER OF TANKS
\$1,000,000±\$200,000	FEWER THAN 101
\$2,000,000	101 OR MORE

- 2) Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section above shall not be eligible for payment in subsequent years. (Section 57.8(d) of the Act)
- c) For purposes of subsection (b) of this Section, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator. (Section 57.8(d) of the Act)
- d) For purposes of subsection (b) of this Section, owner or operator includes:
 - 1) any subsidiary, parent, or joint stock company of the owner or operator; and
 - 2) any company owned by any parent, subsidiary, or joint stock company of the owner or operator. (Section 57.8(d) of the Act)

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.605 Eligible Costs

- a) Types of costs that may be eligible for payment from the Fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include but are not limited to:
 - 1) Early action activities conducted pursuant to Subpart B of this Part;
 - 2) Engineering oversight services;
 - 3) Remedial investigation and design;
 - 4) Feasibility studies;
 - 5) Laboratory services necessary to determine site classification and whether the established corrective action objectives have been met;

- 6) Installation and operation of groundwater investigation and groundwater monitoring wells;
- 7) The removal, treatment, transportation and disposal of soil contaminated by petroleum at levels in excess of the established corrective action objectives;
- 8) The removal, treatment, transportation and disposal of water contaminated by petroleum at levels in excess of the established corrective action objectives;
- 9) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established corrective action objectives;
- 10) Groundwater corrective action systems;
- 11) Alternative technology;
- 12) Recovery of free phase petroleum from groundwater;
- 13) The removal and disposal of any UST if a release of petroleum from the UST was identified and FEMA was notified prior to its removal;
- 14) Costs incurred as a result of a release of petroleum because of vandalism, theft or fraudulent activity by a party other than an owner, operator or agent of an owner or operator;
- 15) Engineering costs associated with seeking payment or reimbursement from the Fund including, but not limited to, completion of an application for partial or final payment;
- 16) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSFM or the Agency;
- 17) Costs for destruction and replacement of concrete, asphalt and paving to the extent necessary to conduct corrective action and if the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer;
- 18) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer. For purposes of this subsection, destruction, dismantling or reassembly of above grade structures does not include costs associated with replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies; and
- 19) Preparation of site classification plans (including physical soil classification and groundwater investigation plans) and associated budget plans, site classification reports, groundwater monitoring plans and associated budget plans, groundwater monitoring completion reports, "High Priority" corrective action plans and associated budget plans, and "High Priority" corrective action completion reports.

- b) An owner or operator may submit a budget plan or application for partial or final payment that includes an itemized accounting of costs associated with activities, materials or services not identified in

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subsection (a) of this Section **above** if the owner or operator submits detailed information demonstrating that the activities, materials or services not identified in subsection (a) of this Section **above** are essential to the completion of the minimum corrective action requirements of the Act and this Part 732.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.606 Ineligible Costs

Costs ineligible for payment from the Fund include but are not limited to:

- a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 732.202(f), and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 732.202(f);
- b) Costs or losses resulting from business interruption;
- c) Costs incurred as a result of vandalism, theft or fraudulent activity by the owner or operator or agent of the owner or operator, including the creation of spills, leaks or releases;
- d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies, including but not limited to those structures destroyed or damaged during corrective action activities;
- e) Costs of corrective action or indemnification incurred by an owner or operator prior to July 28, 1989 (Section 57.8(j) of the Act);
- f) Costs associated with the procurement of a generator identification number;
- g) Legal defense costs including legal costs for seeking payment under these regulations unless the owner or operator prevails before the Board and the Board authorizes payment of legal fees (Section 57.8(1) of the Act);
- h) Purchase costs of non-expendable materials, supplies, equipment or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment or tools;
- i) Costs associated with activities that violate any provision of the Act or Board or Agency regulations;
- j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;
- k) Costs for removal, disposal or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the

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OSFM before the owner or operator provided notice to IEMA of a release of petroleum;

- l) Costs associated with the installation of new USTs and the repair of existing USTs;
- m) Costs exceeding those contained in a budget plan or amended budget plan approved by the Agency ~~or-by-operation-of-law~~;
- n) Costs of corrective action or indemnification incurred before providing notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;
- o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;
- p) Costs associated with improperly installed sampling or monitoring wells;
- q) Costs associated with improperly collected, transported or analyzed laboratory samples;
- r) Costs associated with the analysis of laboratory samples for constituents other than applicable indicator contaminants or groundwater objectives;
- s) Costs for any corrective activities, services or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;
- t) Interest or finance costs charged as direct costs;
- u) Insurance costs charged as direct costs;
- v) Indirect corrective action costs for personnel, materials, service or equipment charged as direct costs;
- w) Costs associated with the compaction and density testing of backfill material;
- x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;
- y) Costs related to activities, materials or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations;
- z) Costs incurred after completion of early action activities in accordance with Subpart B by owners or operators choosing, pursuant to Section 732.300(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;
- aa) Costs incurred after completion of site classification activities in accordance with Subpart C by owners or operators choosing, pursuant to Section 732.400(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;
- bb) Costs of alternative technology that exceed the costs of conventional technology; and
- cc) Costs for investigative activities and related services or materials for developing a "High Priority" corrective action plan that are unnecessary or inconsistent with generally accepted engineering practices or unreasonable costs for justifiable activities, materials

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or services.

dd) Costs to prepare site classification plans and associated budget plans under Section 732.305, to perform site classification under Section 732.307, or to prepare site classification completion reports under Section 732.309, for sites where owners or operators have elected to classify under Section 732.312.

ee) Costs to prepare site classification plans and associated budget plans under Section 732.312, to perform site classification under Section 732.312, or to prepare site classification completion report under Section 732.312, for sites where owners or operators have performed classification activities under Sections 732.305, 732.307, or 732.309.

ff) Costs requested that are based on mathematical errors.

gg) Costs that lack supporting documentation.

hh) Costs proposed as part of a budget plan that are unreasonable.

ii) Costs incurred during early action that are unreasonable.

jj) Costs incurred at a site that has entered the Site Remediation Program under Title XVII and 35 Ill. Adm. Code 740.

kk) Costs incurred for additional remediation after receipt of a "No Further Remediation" letter for the occurrence for which the "No Further Remediation" letter was received.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.608 Apportionment of Costs

a) The Agency may apportion payment of costs for corrective action plans for sites classified as High Priority if:

- 1) The owner or operator was deemed eligible to access the fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and
- 2) The owner or operator failed to justify all costs attributable to each underground storage tank at the site. (Section 57.8(m) of the Act)

b) The Agency will determine, based on volume or number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing. Upon notification from the Agency of an apportionment of costs pursuant to this Section, the owner or operator shall within 30 days notify the Agency whether the apportionment shall be based upon the total number of all the USTs at the site or the total volume of all of the USTs at the site.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 732.612 Determination and Collection of Excess Payments

a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section below.

1) Upon identifying an excess payment, the Agency shall notify the owner or operator receiving the excess payment by certified or registered mail, return receipt requested.

2) The notification letter shall state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.

3) The Agency's determination of an excess payment shall be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

b) An excess payment from the Fund includes, but is not limited to:

- 1) Payment for a non-corrective action cost;
- 2) Payment in excess of the limitations on payments set forth in Sections 732.604 and 732.607 of this Part;
- 3) Payment received through fraudulent means;
- 4) Payment calculated on the basis of an arithmetic error;
- 5) Payment calculated by the Agency in reliance on incorrect information.

c) Excess payments may be collected using any of the following procedures:

- 1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section above or pursuant to a Board order affirming such determination upon appeal, the Agency may attempt to negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section shall prohibit the Agency from exercising at any time its options at subsections (c)(2) or (c)(3) of this Section below or any other collection methods available to the Agency by law.

2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.

3) The Agency may deem an excess payment amount to be a claim or debt owed the Agency, and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.05 of the State Comptroller Act [15 ILCS 405/10.05].

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

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Section 732.700 General

Subpart G provides the procedures for issuance of "No Further Remediation" letters under Title XVI and this Part. Subpart G also sets forth the recording requirements and the circumstances under which the letter may be voidable.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 732.701 Issuance of a "No Further Remediation" Letter

- a) Upon approval by the Agency of a "No Further Action" site classification report, a "Low Priority" groundwater monitoring completion report, or a "High Priority" corrective action completion report, the Agency shall issue to the owner or operator a "No Further Remediation" letter. The "No Further Remediation" letter shall have the legal effect prescribed in Section 57.10 of the Act. The "No Further Remediation" letter shall be denied if the Agency rejects or requires modification of the applicable report.
- b) The Agency shall have 120 days from the date of receipt of a complete report to issue a "No Further Remediation" letter and may include the "No Further Remediation" letter as part of the notification of approval of the applicable report in accordance with Subpart E of this Part. If the Agency fails to send the "No Further Remediation" letter within 120 days, it shall be deemed denied by operation of law.
- c) The notice of denial of a "No Further Remediation" letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.
- d) The Agency shall mail the "No Further Remediation" letter by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that the letter is mailed.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 732.702 Contents of a "No Further Remediation" Letter

- A "No Further Remediation" letter issued pursuant to this Part shall include all of the following:
- a) An acknowledgement that the requirements of the applicable report were satisfied;
- b) A description of the location of the affected property by adequate

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- legal description or by reference to a plat showing its boundaries;
- c) The remediation objectives determined in accordance with 35 Ill. Adm. Code 742 and any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;
- d) A statement that the Agency's issuance of the "No Further Remediation" letter signifies that:
- 1) All corrective action requirements under Title XVI and Part 732 applicable to the occurrence have been complied with;
 - 2) all corrective action concerning the remediation of the occurrence has been completed; and
 - 3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment. (Section 57.10(c) of the Act)
- e) The prohibition under Section 732.703(c) against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;
- f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in avoidance of the "No Further Remediation" letter;
- g) The recording obligations pursuant to Section 732.703 of this Part;
- h) The opportunity to request a change in the recorded land use pursuant to Section 732.704(c) of this Part;
- i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and
- j) Any other provisions agreed to by the Agency and the owner or operator.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 732.703 Duty to Record a "No Further Remediation" Letter

- a) An owner or operator receiving a "No Further Remediation" letter from the Agency pursuant to this Subpart G shall submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title.
- b) A "No Further Remediation" letter shall not become effective until officially recorded in accordance with subsection (a) of this Section. The owner or operator shall obtain and submit to the Agency a certified copy of the letter as recorded.
- c) At no time shall any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation unless further

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investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use and a new letter is obtained and recorded in accordance with this Part.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 732.704 Voidance of a "No Further Remediation" Letter

a) The "No Further Remediation" letter shall be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the "No Further Remediation" letter was based. Specific acts or omissions that may result in voidance of the "No Further Remediation" letter include, but shall not be limited to:

- 1) Any violations of institutional controls or land use restrictions, if applicable;
- 2) The failure of the owner or operator or any subsequent transferee to operate and maintain preventive, engineering and institutional controls or comply with a groundwater monitoring plan, if applicable;
- 3) Obtaining the "No Further Remediation" letter by fraud or misrepresentation;
- 4) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the "No Further Remediation" letter was based, that pose a threat to human health or the environment; or
- 5) Failure to record the "No Further Remediation" letter in accordance with Section 732.703.
- 6) Disturbance or removal of contamination left in place under an approved plan.

b) If the Agency seeks to void a "No Further Remediation" letter, it shall provide notice to the current title holder of the site and the owner or operator at his or her last known address.

1) The notice shall specify the cause for the voidance and describe the facts in support of the cause.

2) The Agency shall mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.

c) Within 35 days after receipt of the Notice of Voidance, the current title holder and owner or operator of the site at the time the "No Further Remediation" letter was issued may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.

d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency

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shall have the burden of proof in such action.

1) If the Agency's action is appealed, the action shall not become effective until the appeal process has been exhausted and a final decision is reached by the Board or courts.

A) Upon receiving a notice of appeal, the Agency shall file a Notice of Lis Pendens with the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.

B) If the Agency's action is not upheld on appeal, the Notice of Lis Pendens shall be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.

2) If the Agency's action is not appealed or is upheld on appeal, the Agency shall submit the Notice of Voidance to the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The Notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(Source: Added at 20 Ill. Reg. _____, effective _____)

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Section 732. APPENDIX B Additional Parameters Groundwater-and-Soil-Remediation Objectives-Acceptable-Detection-limits-(ADB)-and-Soil-Remediation-Methodology

Volatiles

1. Benzene
2. Bromoform
3. Carbon tetrachloride
4. Chlorobenzene
5. Chloroform
6. Dichlorobromomethane
7. 1,2-Dichloroethane
8. 1,1-Dichloroethene
9. cis-1,2-Dichloroethylene
10. trans-1,2-Dichloroethylene
11. Dichloromethane (Methylene chloride)
12. 1,2-Dichloropropane
13. 1,3-Dichloropropylene (cis + trans)
14. Ethylbenzene

15. Styrene16. Tetrachloroethylene17. Toluene

18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

Base/Neutrals

1. Bis(2-chloroethyl)ether
2. Bis(2-ethylhexyl)phthalate
3. 1,2-Dichlorobenzene
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. n-Nitrosodi-n-propylamine
8. n-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

Polynuclear Aromatics

1. Acenaphthene
2. Anthracene
3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Dibenzo(a,h)anthracene
9. Fluoranthene

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10. Fluorene
11. Indeno(1,2,3-c,d)pyrene
12. Naphthalene
13. Pyrene
- Other Non-Carcinogenic PNAs (total)
14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene

Metals (total inorganic and organic forms)

1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Lead
6. Mercury
7. Selenium

Acids

1. Pentachlorophenol
2. Phenol (total)
3. 2,4,6-Trichlorophenol

Pesticides

1. Aldrin
2. alpha-BHC
3. Chlordane
4. 4,4'-DDD
5. 4,4'-DDE
6. 4,4-DDT
7. Dieldrin
8. Endrin
9. Heptachlor
10. Heptachlor epoxide
11. Lindane (gamma-BHC)
12. Toxaphen

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 732.TABLe A Groundwater and Soil Remediation Objectives (Repealed)

Parameters	Objectives Soil mg/kg	Groundwater mg/l	Soil mg/kg	Groundwater mg/l
Volatiles				
1-Benzene	-0.005			
2-Bromoform	-0.001			
3-Carbon-tetrachloride	-0.005			
4-Ethiobenzene	-0.1			
5-Chloroform	-0.0002			
6-Trichlorobromomethane	-0.0002			
7-1,2-Dichloroethane	-0.005			
8-1,1-Dichloroethene	-0.007			
9-Cis-1,2-Dichloroethene	-0.01			
10-trans-1,2-Dichloroethene	-0.005			
11-Dichloromethane	-0.005			
12-1,2-Dichloropropane	-0.005			
13-Cis-1,3-Dichloropropene	-0.001			
14-trans-1,3-Dichloropropene	-0.001			
15-Ethylbenzene	-0.1			
16-Styrene	-0.1			
17-Tetrachloroethene	-0.005			
18-Xylene	-0.1			
19-1,1,1-Trichloroethane	-0.2			
20-1,1,2-Trichloroethane	-0.005			
21-Trichloroethene	-0.005			
22-Vinyl chloride	-0.002			
23-Xylenes-(total)	10.0			
24-BTEX-(total)	11.705			
Base/Neutrals				
1-Bis(2-chloroethyl)ether	-0.01			
2-Bis(2-ethylhexyl)phthalate	-0.006			
3-1,2-Dichlorobenzene	-0.6			
4-1,4-Dichlorobenzene	-0.075			
5-Hexachlorobenzene	-0.005			
6-Hexachlorocyclopentadiene	-0.05			
7-N-Nitrosodipropylamine	-0.01			
8-N-Nitrosodiphenylamine	-0.01			
9-1,2,4-Trichlorobenzene	-0.07			
Polynuclear-Aromatics				
1-Acenaphthene	-0.42			
2-Anthracene	-2.1			
3-Benzofuranthracene	-0.00013			
4-Benzofluoranthene	-0.0002			
5-Benzofluoranthene	-0.00019			

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6-Benzofluoranthene	-0.00017			
7-Chrysene	-0.0015			
8-Benzofluoranthracene	-0.0003			
9-Benzofluoranthene	-0.20			
10-Fluorene	-0.20			
11-Indeno(1,2,3-cd)pyrene	-0.00043			
12-Naphthalene	-0.00043			
13-Pyrene	-0.21			
14-Other				
Non-Carcinogenic				
PNAs-(total)				
Acenaphthylene				
Benzofluoranthene				
Phenanthrene				
Metals(2)				
1-Arsenic	-0.05			
2-Barium	-2.0			
3-Cadmium	-0.005			
4-Chromium-(total)	-0.1			
5-Lead	-0.0075			
6-Mercury	-0.002			
7-Selenium	-0.05			
Acids				
1-Pentachlorophenol	-0.001			
2-Phenol-(total)	-0.1			
3-2,4,6-Trichlorophenol	-0.0064			
Pesticides				
1-Aldrin	-0.0004			
2-Alpha-BHC	-0.0003			
3-Chlordane	-0.02			
4-4,4'-DDB	-0.0004			
5-4,4'-DDP	-0.0001			
6-4,4'-DDT	-0.00012			
7-Dieldrin	-0.0002			
8-Endrin				
9-Heptachlor	-0.0004			
10-Heptachlor-epoxide	-0.0002			
11-Endane-(gamma-BHC)	-0.0002			
12-Toxaphene	-0.003			
Polychlorinated-Biphenyls				
1-Polychlorinated-Biphenyls				
2-Polychlorinated-Biphenyls				
3-Polychlorinated-Biphenyls				
4-Polychlorinated-Biphenyls				
5-Polychlorinated-Biphenyls				
6-Polychlorinated-Biphenyls				
7-Polychlorinated-Biphenyls				
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96-Polychlorinated-Biphenyls				
97-Polychlorinated-Biphenyls				
98-Polychlorinated-Biphenyls				
99-Polychlorinated-Biphenyls				
100-Polychlorinated-Biphenyls				

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* See 40-CFR-761.1307 as incorporated by reference at Section-732.1047 for US EPA "PEB-Cleanup Policy."

(1) Acceptable--Detection limit---"Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," EPA Publication No. SW-846 and "Methods for the Determination of Organic Compounds in Drinking Water," EPA-EM557 EPA-600/4-88/039, as incorporated by reference at Section-732.104--of this Part--must be used. Per parameters where the specified objective is below the AB5, the AB5 shall serve as the objective until the US EPA promulgates lower AB5s. When promulgated, the new USEPA AB5 or the specified objective, whichever is higher, shall apply. For other parameters the AB5 must be below the specified cleanup objective.

(2) For soil--based upon the concentration determined by the Method-1311 Toxicity Characteristic Leaching Procedure--(TCLP)--at 40-CFR-261.7 Appendix II, as incorporated by reference at Section-732.104--of this Part:

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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Section 732.TABLe B Soil Remediation Methodology: Model Parameter Values (Repealed)

PARAMETER	DEFINITION (UNIT)	MODEL VALUES
S_d	Source width (vertical plane) {cm}	304.8
S_w	Source width (horizontal plane) {cm}	609.6
a_x	Longitudinal dispersivity {cm}	$0.1 * x$
a_y	Transverse dispersivity {cm}	$a_x/3$
a_z	Vertical dispersivity {cm}	$a_x/20$
U	Specific discharge ($K_s i/q_s$) {cm/day}	0.346
K_s	Saturated hydraulic conductivity {cm/d}	86.4
k_s	Sorption coefficient {cm ³ H ₂ O/g soil}	Chemical specific
q_s	Volumetric water content of saturated zone	0.25
i	Groundwater gradient {cm/cm}	0.001
t	First order degradation constant {day ⁻¹ }	Chemical specific
x	Distance along the center line from edge of dissolved plume source zone {cm}	152-6096
U_{gw}	Groundwater Darcy Velocity {cm/year}	2500
d_{gw}	Groundwater mixing zone thickness {cm}	304.8
r_s	Soil bulk density {g/cm ³ }	1.7
q_{as}	Volumetric air content in vadose zone soils {cm ³ air/cm ³ soil}	0.22
q_{ws}	Volumetric water content in vadose	0.12

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(Source: Repealed at 20 Ill. Reg. _____, effective _____)

	zone soils {cm ³ water/cm ³ soil}	
H	Henry's Law constant {cm ³ water/cm ³ soil}	Chemical specific
I	Infiltration rate of water through soil {cm/year}	30
W	Width of source parallel to groundwater flow {cm}	1500

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(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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Section 732. TABLE C Soil Remediation Methodology: Chemical Specific Parameters (Repealed)

Chemical	Sorption Coefficient (K_d)	Degradation Constant (t)	Henry's Law Constant (H)	Solubility (mg/l)	Ground water Objective (mg/l)
Benzene	0.38	0.0009	0.22	1750	0.005
Toluene	1.349	0.011	0.26	535	1.0
Ethyl Benzene	0.955	0.003	0.32	152	0.7
Xylene	2.399	0.0019	0.29	130	10.0
Naphthalene	12.88	0.0027	0.049	31.7	0.025
Benzo(a)pyrene	3890.45	0.0007	1.49×10^{-9}	0.0012	0.0002

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Section 732. TABLE D Soil Remediation Methodology: Objectives (Repealed)

Distance (ft) Benzene Toluene Ethyl Benzene Xylenes Naphthalene Benzofat pyrene

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Soil-Cleanup-Objectives-(mg/kg)

5	0-005	1-0	0-7	10-0	0-025	0-019
10	0-005	1-010	0-7	10-0	0-025	0-025
15	0-005	1-043	0-7	10-0	0-025	0-033
20	0-005	1-043	0-7	10-0	0-025	0-045
25	0-005	1-043	1-507	10-0	0-059	0-065
30	0-005	1-043	2-900	10-0	0-991	0-004
35	0-005	1-043	2-900	10-0	2-095	0-004
40	0-005	1-043	2-900	10-0	4-305	0-004
45	0-005	1-043	2-900	10-0	7-366	0-004
50	0-005	1-043	2-900	10-0	7-366	0-004
55	0-005	1-043	2-900	10-0	7-366	0-004
60	0-005	1-043	2-900	10-0	7-366	0-004
65	0-007	1-043	2-900	10-0	7-366	0-004
70	0-010	1-043	2-900	10-0	7-366	0-004
75	0-015	1-043	2-900	10-0	7-366	0-004
80	0-020	1-043	2-900	10-0	7-366	0-004
85	0-020	1-043	2-900	10-0	7-366	0-004
90	0-030	1-043	2-900	10-0	7-366	0-004
95	0-051	1-043	2-900	10-0	7-366	0-004
100	0-069	1-043	2-900	10-0	7-366	0-004
105	0-091	1-043	2-900	10-0	7-366	0-004
110	0-120	1-043	2-900	10-0	7-366	0-004
115	0-157	1-043	2-900	10-0	7-366	0-004
120	0-205	1-043	2-900	10-0	7-366	0-004
125	0-265	1-043	2-900	10-0	7-366	0-004
130	0-341	1-043	2-900	10-0	7-366	0-004
135	0-436	1-043	2-900	10-0	7-366	0-004
140	0-555	1-043	2-900	10-0	7-366	0-004
145	0-704	1-043	2-900	10-0	7-366	0-004
150	0-880	1-043	2-900	10-0	7-366	0-004
155	1-115	1-043	2-900	10-0	7-366	0-004
160	1-395	1-043	2-900	10-0	7-366	0-004
165	1-730	1-043	2-900	10-0	7-366	0-004
170	2-157	1-043	2-900	10-0	7-366	0-004
175	2-660	1-043	2-900	10-0	7-366	0-004
180	3-209	1-043	2-900	10-0	7-366	0-004
185	4-042	1-043	2-900	10-0	7-366	0-004
190	4-950	1-043	2-900	10-0	7-366	0-004
195	6-046	1-043	2-900	10-0	7-366	0-004

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200 7-362 13-943 2-900 10-0 7-366 0-004

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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Section 732. Illustration A Equation For Groundwater Transport

The Board used the following correct ASTM equation for steady state attenuation of chemical concentration obtained from Domenico, P.A., "An Analytical Model for Multidimensional Transport of a Decaying Contaminant Species," *Journal of Hydrology*, Vol. 91, pp. 49-58, 1987,

$$\frac{C(x)}{C_{source}} = \exp \left[\frac{x}{2\alpha_x} \left(1 - \sqrt{1 + \frac{4\lambda\alpha_x}{U}} \right) \right] \operatorname{erfc} \left(\frac{S_w}{4\lambda\alpha_x x} \right) \operatorname{erfc} \left(\frac{S_d}{4\lambda\alpha_x x} \right)$$

referenced in the ASTM guide for Risk Based Corrective Action Applied at Petroleum Release Sites, approved May, 1994:

C = Dissolved hydrocarbon concentration along centerline of dissolved plume [$\text{g}/\text{cm}^3 \text{H}_2\text{O}$]
 C_{source} = Dissolved hydrocarbon concentration in dissolved plume source area [$\text{g}/\text{cm}^3 \text{H}_2\text{O}$]

S_d = Source width (vertical plane) [cm]

S_w = Source width (horizontal plane) [cm]

α_x = Longitudinal dispersivity [cm]

α_y = Transverse dispersivity [cm]

α_z = Vertical dispersivity [cm]

U = $K_s v/q_s$

K_s = Saturated hydraulic conductivity [cm/d]

k_s = Sorption coefficient

q_s = Volumetric water content of saturated zone

i = Groundwater gradient [cm/cm]

t = First order degradation constant

$\operatorname{erf}()$ = Error function evaluated for value of

x = Distance along the center line from edge of dissolved plume source zone [cm]

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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Section 732. Illustration B Equation For Soil-Groundwater Relationship (Repealed)

The Board used the following equation drawn from the ASPM guide as referenced in Illustration A to calculate the soil leaching factor identified as Equation No. 4 in the Illinois Petroleum Marketers Association (IPMA) Proposal discussed within the Board's Second Notice Opinion and Order Booklet R4-2A7, entitled "In the Matter of Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732) (Pursuant to P.A. 89-496)";

$$\frac{LF_{sw}}{\left(\frac{\text{mg}}{\text{kg}} / \text{kg-Soil} \right)} = \frac{\rho_s}{[\theta_{ws} + k_s \rho_s + H\theta_{os}](1 + \frac{U_{gw} \delta_{gw}}{W})} \frac{10^6 \text{ cm}^3 - \text{kg}}{L - g}$$

LF_{sw} = Leaching factor

k_s = Soil water sorption coefficient

U_{gw} = Groundwater Darcy Velocity [cm/sec]

δ_{gw} = Groundwater mixing zone thickness [cm]

ρ_s = Soil bulk density

q_{ws} = Volumetric air content in vadose zone soils

q_{ws} = Volumetric water content in vadose zone soils

H = Henry's Law constant

i = Infiltration rate of water through soil

W = Width of source parallel to groundwater flow

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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Section 732. ILLUSTRATION D Equation For Calculating Soil Objectives at the Source (Repealed)

The Board used the following equation drawn from the IPMA proposal (see Illustration B) to calculate the soil remediation objectives:

$$\text{Soil Target} = \frac{GW_{\text{source}}}{(LF_{sw})SF}$$

Soil Target = Soil objective at the source
 LF_{sw} = Soil leaching factor calculated using equation 2
 SF = Safety factor (1000)

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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Section 732. Illustration C Equation For Calculating Groundwater Objectives at the Source

The Board used the following equation drawn from the IPMA proposal (see Illustration B) to calculate the groundwater objectives at the source:

$$GW_{\text{source}} = \frac{GW_{\text{comp}}}{(C(x) / C_{\text{source}})}$$

GW_{source} = Groundwater objective at the source
 GW_{comp} = Groundwater objective at compliance point
 $C(x)/C_{\text{source}}$ = Calculated for a distance of 5 to 200 feet using equation 1

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

Section Numbers:	Proposed Action:
160.30	Amendment
160.35	Amendment
160.60	Amendment
160.61	Amendment
160.62	New Section

4) Statutory Authority: Sections 10-17.7 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/10-17.7 and 12-13], Public Acts 89-6 and 89-641.

5) Complete Description of the Subjects and Issues Involved: Pursuant to provisions of Public Act 89-6 and Public Act 89-641, these proposed amendments provide for the voluntary acknowledgment of paternity. Public Act 89-641 allows the Department to make changes in its Child Support Enforcement rules to increase the establishment of paternity and expedite child support collection efforts. The voluntary acknowledgment of paternity process will allow the mother and the father of a child to establish paternity without having to go to court. As a result of this rulemaking, the mother and the father only need to sign an acknowledgment of paternity to establish the paternity of a child.

The Department of Public Health requires an acknowledgment of paternity, signed by the mother and father, to add the father's name to the child's birth certificate. Public Act 89-641 adds a quick and easy method for the mother and father of a non-marital child to establish paternity and be listed on the child's birth certificate without the need to go to court.

Under the new law, when the father's name appears on the birth certificate of a non-marital child born on or after August 9, 1996, paternity is established. The new law also allows the birth certificate of a non-marital child born before August 9, 1996, to be amended to list the name of the father. When the birth certificate is amended to list the name of the father, paternity is established.

Paternity Establishment Demonstration

As part of the Paternity Establishment Demonstration Project of the Governor's Fast Track Welfare Reform, the Department requested a federal waiver to strengthen the requirements for cooperation in paternity establishment. The requirements are as follows:

- ° the Department is to give the client notice about the new cooperation requirements and penalties for failure to cooperate; and

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Section 732.APPENDIX C Backfill Volumes

Volume of Tank in Gallons	Maximum amount of backfill material to be removed in cubic yards in place	Maximum amount of backfill material to be replaced in cubic yards in place
<285	54	56
285 to 299	55	57
300 to 559	56	58
560 to 999	67	70
1000 to 1049	81	87
1050 to 1149	82	96
1150 to 1999	94	101
2000 to 2499	112	124
2500 to 2999	128	143
3000 to 3999	143	161
4000 to 4999	175	198
5000 to 5999	189	219
6000 to 7499	198	235
7500 to 8299	206	250
8300 to 9999	219	268
10000 to 11999	252	312
12000 to 14999	286	357
15000 to 19999	345	420

(Source: Added at 20 Ill. Reg. _____, effective _____)

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- the client is required to identify and give information about the non-custodial parent.

In addition, these proposed amendments establish that a progressive sanction for non-cooperation, based on a 6-month time period beginning with the client's notification of cooperation requirements will be used. A custodial parent who fails to cooperate, without good cause, at any time during the first six months following the notification required by these amendments, will be excluded from the assistance grant.

Non-cooperation, without good cause, that continues beyond the six-month period after the required notification or an instance of non-cooperation that occurs after the six-month period following a period during which the custodial parent was deemed to be cooperating (such as, failure to appear for a court or administrative proceeding, or failure to submit to or bring the non-marital child in for court or administratively-ordered genetic testing) will result in sanctions by the Department as follows:

1. If the custodial parent was sanctioned for failure to furnish identifying information concerning the alleged father or for any other instance of non-cooperation, without good cause, at any time during the first six months following the required notification and non-cooperation continues beyond the end of the six-month period, then:
 - a. beginning with the seventh month following notification, in addition to continued exclusion of the custodial parent from the assistance grant, the non-marital child's portion of the family's cash assistance benefits will be terminated; and
 - b. the sanction will be removed in the month following the date on which the custodial parent cooperates.
2. If an instance of non-cooperation, without good cause, occurs after the end of the first six months following the required notification and the custodial parent had not previously been sanctioned for non-cooperation, then:
 - a. the custodial parent will be excluded from the assistance grant; and
 - b. if the custodial parent then cooperates within the sanction month, the sanction will be removed for the following month; however
 - c. if the non-cooperation continues through the sanction month, the non-marital child's portion of the family's cash assistance benefits will be terminated beginning the following month, and

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- the sanction will not be removed until the month following the date on which the custodial parent cooperates.

3. If an instance of non-cooperation, without good cause, occurs after the end of the first six months of the requirement to cooperate, following a period during which the custodial parent was deemed to be cooperating, but the custodial parent had, at any earlier time following the required notification been sanctioned for non-cooperation; then:
 - a. in addition to excluding the custodial parent from the assistance grant, the non-marital child's portion of the family's cash assistance benefits will be terminated; and
 - b. the sanctions will not be removed until the month following the date on which paternity is established, unless it is determined by the Department that:
 - the custodial parent has provided the identifying information related to the child's alleged father, as specified in these amendments and fully cooperated; and
 - the failure to establish paternity is attributable to the Department for reasons such as trial or hearing continuances, or failure to arrange genetic testing or to make findings after a paternity administrative hearing, or to serve the alleged father with process or notice as provided by law.

This rulemaking establishes that the Department will conduct a demonstration project for administrative paternity and support establishment and continued eligibility for custodial parents of a non-marital child for whom paternity has not been established. The Department will administratively establish paternity in uncontested matters in all IV-D cases. In cases involving recipients of cash assistance, the Department will administratively establish paternity in contested cases. When the Department administratively establishes paternity, it will also enter an administrative support order.

Unless the Department determines that there is good cause for refusing to cooperate, a custodial parent of a non-marital child in the Paternity Establishment and Continued Eligibility Demonstration Project must cooperate in the Department's efforts to establish the paternity of any non-marital child for whom paternity has not been established. These proposed amendments provide the guidelines for determining cooperation with the Paternity Establishment and Continued Eligibility Demonstration Project.

Cooperation

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These proposed amendments provide that the client must give information to begin proceedings to establish the paternity of the child. A client who is the custodial parent and who does not have good cause, must identify and give information about the non-custodial parent. If more than one person may be a non-custodial parent, the client must give information about each person. The information must include at least the first and last name and the social security number of the non-custodial parent. If the SSN is not known, at least two of the following items of information about the non-custodial parent will be accepted:

- date of birth;
- address;
- telephone number;
- name and address of employer;
- name of parent; and
- the manufacturer's model and license number of any motor vehicle owned by the non-custodial parent.

The failure of a custodial parent to provide sufficient identifying information about the alleged father will not be determined to be non-cooperation if:

1. The custodial parent has had an assistance grant that includes the non-marital child for at least 10 years prior to the notification provided to the custodial parent and the custodial parent furnishes to the Department a written statement, under penalty of perjury, indicating that she does not know the identifying information about the alleged father because she has had no contact with him since the non-marital child was included in the assistance grant; or
2. The custodial parent does not know the required information because:
 - the custodial parent is mentally retarded, as documented by a copy of an intelligence quotient test result, or the written statement of a qualified medical practitioner; or
 - the custodial parent is mentally ill, or was mentally ill at the time the non-marital child was conceived, as documented by the written statement of a qualified medical practitioner stating that the nature of the mental illness prevented the person from knowing the required information; or
 - the custodial parent has a history of drug or alcohol abuse, and

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provides documentation of treatment for such abuse at the time the non-marital child was conceived; and

3. The custodial parent provides whatever identifying information she does possess about the alleged father.

Fair Hearings

All persons subject to the demonstration sanction have the same appeal rights, including fair hearings and access to the judicial process, as any other person notified of adverse action.

- 6) Will these proposed amendments replace emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
160.10	Amendment	September 20, 1996 (20 Ill. Reg. 12567)
160.70	Amendment	May 24, 1996 (20 Ill. Reg. 7288)
160.71	New Section	September 20, 1996 (20 Ill. Reg. 12567)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave. E., 3rd Floor
Springfield, IL 62762
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to these proposed amendments. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page _____.

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- 1) Heading of the Part: Demonstration Programs
- 2) Code Citation: 89 Ill. Adm. Code 170
- 3) Section Numbers: 170.380
Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P. A. 89-289

5) Complete Description of the Subjects and Issues Involved: As provided at 20 Ill. Reg. 5648, the Quarterly Reporting - Failure to Report Employment Demonstration has been in place in pilot offices around the State since the first quarter of 1996. The Department is now proposing to expand these provisions Statewide, except for specific sites.

Currently, caseworkers spend a great deal of time budgeting client earnings. Quarterly Reporting - Failure to Report Employment allows caseworkers to budget income on a quarterly, rather than monthly, basis. Under this system, the budgeting process is limited to four times a year thereby allowing time for caseworkers to better serve the client's other needs.

Assistance units which must report earnings are assistance units which contain a household member who is employed or who has lost employment within one of the last three months. These proposed amendments provide that AFDC clients that must report earnings will have their benefits calculated quarterly with consideration given to monthly income and attendant circumstances. In addition, the intake process will use the actual amount of income received in the Initial Prorated Entitlement (IPE) period to determine the first mercury warrant and calculation of the first regular roll payment will be computed using income averaging.

This rulemaking provides that all AFDC assistance units which must report quarterly will have their benefits calculated for three months by considering income and attendant circumstances on a prospective basis. Earnings will be budgeted prospectively for a three-month period based on the quarterly report provided by the client. Income averaging will be used to determine the amount of income to budget for a three-month period.

When the completed quarterly report is received, the Department will determine if eligibility continues and process any adjustments to the payment. The Department will notify the caretaker relative of any changes in the payment and the reason or reasons for the change. If the AFDC grant is being reduced or terminated, as a result of information contained in the report, the notification will be mailed to arrive no later than the payment or the day the payment would have arrived.

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170.410 New Section April 26, 1996 (20 Ill. Reg. 5977)
170.500 New Section August 16, 1996 (20 Ill. Reg. 10778)

If the Department does not receive the quarterly report or receives only an incomplete report, AFDC may be terminated. The Department will send the client a notice of the action to arrive not later than the date the payment would have been made if the Department had received a completed report on time. If the family is found ineligible or eligible for a grant less than that of the prior month, the Department will promptly notify the client of the right to a fair hearing and the right to have assistance reinstated. If a hearing is requested on or before the date of change or within ten calendar days after the date of notice, whichever is later, assistance will be reinstated to the level of the prior month.

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

If a completed report form is received by the end of the first payment month of the three-month period for which the report is used to determine eligibility, eligibility for the entire three-month period will be determined. If eligible, all the applicable earned income disregards will be allowed for the entire three-month period.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

If, however, a completed report form is received after the last calendar day of the first payment month of the three-month period for which the report is used to determine eligibility, eligibility for the month of receipt and the third month, if applicable, will be determined. Eligibility for a cash payment for the first payment month of the three-month period will not exist. The client will be allowed all the applicable earned income disregards for those months for which eligibility is determined.

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave. E., 3rd Floor
Springfield, IL 62762
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Clients who fail to report their earnings will be cancelled once it is discovered by the Department via crossmatch with the Illinois Department of Employment Security (IDES). In addition, an overpayment will be referred for all assistance received from the first month of the crossmatch quarter to the present. The client will be given timely notification of the action taken.

The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to these proposed amendments. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation

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regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER g: DEMONSTRATION PROGRAMS

PART 170

DEMONSTRATION PROGRAMS

SUBPART A: THE FRESH START

WELFARE REFORM DEMONSTRATION PROGRAM

Section

170.10 Youth Employment and Training Initiative
170.20 Paternal Involvement Project
170.30 Homeless Families Support Project
170.40 Family Responsibility Project
170.50 Income Budgeting Project

SUBPART B: THE CAREER ADVANCEMENT PROGRAM

Section

170.100 The Career Advancement Program
170.110 Career Advancement Experimental and Control Groups
170.120 Career Advancement Participation Requirements of Experimental Group Members
170.130 Career Advancement Supportive Services for Experimental Group Members

SUBPART C: COMMUNITY GROUP PARTICIPATION PROGRAM

Section

170.200 Community Group Participation Program

SUBPART D: EARNED INCOME INITIATIVE

Sections

170.250 Work Pays Demonstration

SUBPART E: THE SCHOOL ATTENDANCE INITIATIVE

170.300

School Attendance Initiative

SUBPART F: WORK AND RESPONSIBILITY DEMONSTRATION

Section

170.350 Family Accountability
170.360 Get a Job Initiative
170.370 Targeted Work Initiative (TWI)
170.380 Quarterly Reporting - Failure to Report Employment Demonstration Project

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170.390 Employment Plan Demonstration Project

SUBPART G: BIOMETRIC IDENTIFICATION DEMONSTRATION

Section

170.400 Retinal Scanning

SUBPART H: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS)
DEMONSTRATION PROGRAM

Section

170.450 Young Parent Services South Home Visitor, Demonstration (Project Link)

AUTHORITY: Implementing and authorized by Sections 4-1, 4-1.10, 4-8, 4-17, 11-20, 12-4.28 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1, 4-1.10, 4-8, 4-17, 11-20, 12-4.28 and 12-13].

SOURCE: Adopted at 13 Ill. Reg. 14067, effective August 23, 1989; amended at 14 Ill. Reg. 19320, effective November 30, 1990; amended at 17 Ill. Reg. 19197, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19721, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3372, effective February 28, 1994; emergency amendment at 19 Ill. Reg. 645, effective January 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 7901, effective June 8, 1995; emergency amendment at 19 Ill. Reg. 15256, effective November 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15849, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16314, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 866, effective January 1, 1996; amended at 20 Ill. Reg. 4333, effective February 29, 1996; amended at 20 Ill. Reg. 5685, effective March 30, 1996; amended at 20 Ill. Reg. 6029, effective April 12, 1996; amended at 20 Ill. Reg. 6517, effective April 29, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART F: WORK AND RESPONSIBILITY DEMONSTRATION

Section 170.380 Quarterly Reporting - Failure to Report Employment
Demonstration Project

a) This Section applies to AFDC applicants and recipients, Statewide, except for applicants and recipients in the following local offices:

1) Auburn Park (research site); Research-sites;

2) Williamson (research site);

3) Rock Island;

4) Champaign; and

5) Lake.

b) Cases in the research sites will be randomly assigned to an experimental or control group. Cases assigned to the experimental

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group are subject to the rules in this Section.

2) Englewood, South-Suburban-and-Uptown-fail-cases;

3) BuPage-fail-cases;

4) Kankakee-fail-cases;

5) McLean-fail-cases;-and

6) Peoria-fail-cases;

c) Clients in this demonstration project who fail to report their earnings and their earnings are discovered via crossmatch with the Illinois Department of Employment Security (IDES) will be centrally cancelled and an overpayment referred for all assistance received from the first month of the IDES quarter identified to the present. The client will be given timely notification of the action taken.

d) Each assistance unit in the Quarterly Reporting - Failure to Report Demonstration Project that is required to report must submit a written completed report form to the Department quarterly. The information to be reported will be regarding the assistance unit's income, assets, family composition and other factors pertinent to AFDC eligibility for the budget month and any changes in these factors which the unit expects to occur in the current or future months.

e) The assistance units which must report are units which contain a member who is employed or who has lost employment within the last three months.

f) All AFDC units which must report quarterly shall have benefits calculated for three months by considering income and attendant circumstances on a prospective basis.

g) Earnings shall be budgeted prospectively for a three-month period based on the quarterly report provided by the client. Income averaging will be used to determine the amount of income to budget for a three-month period.

h) Clients who experience a decrease in income below the amount anticipated may be eligible for a supplemental payment. A supplemental payment must be requested in writing. Eligibility for a supplemental payment may exist if the gross earned (minus self-employment business expenses, if any) and unearned income (includes the assistance payment) received from all sources for the payment month is less than the payment level for an assistance unit of comparable size. If these conditions are met, the amount of supplemental payment the client is eligible to receive, if any, is determined by adding the gross earned income (minus self-employment business expenses and the 2/3 earned income deduction) and the gross unearned income (includes the assistance payment) received in the payment month. This amount is subtracted from the payment level for an assistance unit of comparable size. If the difference is \$10 or more, the client is eligible for a supplemental payment. The supplemental payment the client is eligible for is the amount of the difference.

i) Clients who experience an increase in income above the amount anticipated will not be referred for an overpayment based on the increased income.

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1) At intake, actual amount of income received in the Initial Prorated Entitlement (IPE) period will be used to determine the IPE amount. The first regular roll payment amount will be computed using income averaging.

2) When the completed quarterly report is received, the Department will determine if eligibility continues and process any adjustments to the payment. The Department will notify the caretaker relative of any changes in the payment and the reason or reasons for the change. If the AFDC grant is being reduced or terminated as a result of information contained in the report, the notification will be mailed to arrive no later than the payment or the day the payment would have arrived.

3) If the Department does not receive the quarterly report or receives only an incomplete report, AFDC may be terminated. The Department must send the client a notice of the action to arrive not later than the date the payment would have been made if the Department had received a completed report on time. If the family is found ineligible or eligible for a grant less than that of the prior month, the Department will promptly notify the client of the right to a fair hearing and the right to have assistance reinstated. If a hearing is requested on or before the date of change or within ten calendar days after the date of notice, whichever is later, assistance will be reinstated to the level of the prior month.

4) If a completed report form is received by the end of the first payment month of the three-month period for which the report is used to determine eligibility, eligibility for the entire three-month period will be determined. If eligible, all the applicable earned income disregards will be allowed for the entire three-month period.

5) If a completed report form is received after the last calendar day of the first payment month of the three-month period for which the report is used to determine eligibility, eligibility for the month of receipt and the third month, if applicable, will be determined. Eligibility for a cash payment for the first payment month of the three-month period shall not exist. The client will be allowed all the applicable earned income disregards for those months for which eligibility is determined.

6) All AFDC caretaker relatives who are required to file quarterly reports will be notified of their responsibility, receive a complete explanation of the requirements and be informed of the due date for the first report.

7) For all applicants and recipients, except for those in control cases in Auburn Park and Williamson, one vehicle, regardless of its value, will be disregarded for purposes of determining the eligibility or cash grant amount of the AFDC unit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Food Stamps

2) Code Citation: 89 Ill. Adm. Code 121

3) Section Numbers:
121.61 Proposed Action:
121.91 Amendment
121.92 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments make the following changes in the Food Stamp Program:

1. To ensure that recipients of Category P3 assistance receive the maximum food stamp benefits to which they are entitled, this rulemaking expands the definition of a disabled household member to include Category P3 individuals.

The gross income standards of eligibility are 130 percent of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as described in 7 CFR 273.9(a)(1)(1990). However, categorically eligible households and households containing a member who is elderly, blind or disabled are exempt from this gross income check (7 CFR 273.9(c) (1990)). As a result of this rulemaking, households containing a member who receives disability-related medical assistance benefits, (Categories 92, 93 and P3) under Title XIX (Medicaid) of the Social Security Act, will qualify for increased food stamp benefits.

2. This rulemaking also establishes that food stamp households receiving public assistance benefits under the Aged, Blind or Disabled (ABD) Program are no longer excluded from monthly reporting if their household contains an individual who is required to report monthly.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation

121.7 Amendment October 11, 1996 (20 Ill. Reg. 13151)

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121.20	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.22	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.23	New Section	August 2, 1996 (20 Ill. Reg. 10263)
121.24	New Section	August 2, 1996 (20 Ill. Reg. 10263)
121.25	New Section	August 2, 1996 (20 Ill. Reg. 10263)
121.26	New Section	August 2, 1996 (20 Ill. Reg. 10263)
121.27	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.29	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.30	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.30	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.31	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.31	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.50	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.57	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.60	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.61	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.63	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.63	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.64	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.70	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.71	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.75	Amendment	August 2, 1996 (20 Ill. Reg. 10263)
121.93	Amendment	August 30, 1996 (20 Ill. Reg. 11581)
121.94	Amendment	August 30, 1996 (20 Ill. Reg. 11581)
121.98	New Section	August 30, 1996 (20 Ill. Reg. 11581)
121.131	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.151	Amendment	October 11, 1996 (20 Ill. Reg. 13151)
121.182	Amendment	October 18, 1996 (20 Ill. Reg. 13515)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave E., 3rd Floor
Springfield, IL 62762
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS

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100/5-40].

The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to these proposed amendments. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
 CHAPTER I: DEPARTMENT OF PUBLIC AID
 SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
 FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section	
121.1	Application for Assistance
121.2	Time Limitations on the Disposition of an Application
121.3	Approval of an Application and Initial Authorization of Assistance
121.4	Denial of an Application
121.5	Client Cooperation
121.6	Emergency Assistance
121.7	Expedited Services
121.10	Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.19	Ending a Voluntary Quit Disqualification
121.20	Citizenship
121.21	Residence
121.22	Social Security Numbers
121.23	Work Registration/Participation Requirements (Repealed)
121.24	Individuals Exempt From Work Registration Requirements (Repealed)
121.25	Failure to Comply (Repealed)
121.26	Period of Disqualification (Repealed)
121.27	Voluntary Job Quit
121.28	Good Cause for Voluntary Job Quit
121.29	Exemptions from Voluntary Quit Rule

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder

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121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions From Monthly Income
121.64	Coupon Allotment

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA -

Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting
121.91	Monthly Reporting
121.92	Retrospective Budgeting
121.93	Direct Mail Issuance of Food Stamp Coupons
121.94	Replacement of Food Stamp Coupons
121.95	Restoration of Lost Benefits
121.96	Uses For Food Coupons
121.97	Supplemental Payments
121.98	Food Stamp Simplified Application Demonstration Project (Repealed)
121.120	Recertification of Eligibility
121.130	Residents of Shelters for Battered Women and their Children

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121.135 Incorporation By Reference
121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
121.150 Definition of Intentional Violations of the Program
121.151 Penalties for Intentional Violations of the Program
121.152 Notification To Applicant Households
121.153 Disqualification Upon Finding of Intentional Violation of the Program
121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
121.160 Persons Required to Participate
121.162 Participation and Cooperation Requirements
121.164 Orientation

121.166 Assessment and Employability Plan

121.170 Job Search Component

121.172 Basic Education Component

121.174 Job Readiness Component

121.176 Work Experience Component

121.178 Job Training Component

121.180 Grant Diversion Component

121.182 Earnfare Component

121.184 Sanctions

121.186 Good Cause for Failure to Cooperate

121.188 Supportive Services

121.190 Conciliation and Fair Hearings

121.200 Types of Claims (Recodified)

121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)

121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)

121.203 Collecting Claim Against Households (Recodified)

121.204 Failure to Respond to Initial Demand Letter (Recodified)

121.205 Methods of Repayment of Food Stamp Claims (Recodified)

121.206 Determination of Monthly Allotment Reductions (Recodified)

121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)

121.208 Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

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SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill.

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Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14825, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994;

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amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective _____.

SUBPART D: ELIGIBILITY STANDARDS

Section 121.61 Gross Monthly Income Eligibility Standards

a) Gross Monthly Income Eligibility Standards

1) The gross income standards of eligibility shall be 130 percent of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget (see 7 CFR 273.9(a)(1)(1990)). However, categorically eligible households and households containing a member who is elderly, blind or disabled will be exempt from this gross income check (see also 7 CFR 273.9(c) (1990)). To qualify for increased benefits a household must contain a member who meets one of the following requirements:

- A) A member is 60 years of age or older. An individual is considered age 60 in the fiscal month he or she becomes 60.
- B) A member receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, (this includes the household where the member is receiving SSI income pending a final decision from the Social Security Administration. This SSI income is being provided on a temporary or emergency basis).
- C) A member receives Social Security disability or blindness benefits under Title II (RSDI) of the Social Security Act.
- D) A member receives State Supplemental Payment (SSP) due to blindness or disability. ~~This does not include cases in which status pending a determination of blindness or disability.~~
- E) A veteran with a service connected disability rated or paid as totally disabled by the Veterans Administration (VA).
- F) A veteran considered by the VA to be in need of regular aid and attendance or permanently housebound.
- G) A veteran's surviving spouse who is considered in need of aid and attendance or considered permanently housebound by the Veterans Administration or a veteran's surviving child who is considered permanently incapable of self-support by the Veterans Administration.

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Section 121.91 Monthly Reporting

- a) Individuals who receive income from a sheltered workshop and individuals who receive public assistance benefits under the Aid to the Aged, Blind or Disabled Program as either an Aged, Blind, or Disabled case are excluded from monthly reporting, unless another household member is required to report monthly, as defined in 7 CFR 121.91(b)(1), (2) and (3) of this Section.
- b) The following food stamp Food-Stamp households are required to report monthly:
- 1) all households having at least one member receiving earned income (see See Section 121.40(b));
 - 2) households having at least one member receiving Unemployment Insurance Benefits (UI);
 - 3) households having at least one member who has lost employment within the last three months.
- c) Migrant households in the migrant job stream do not have to report monthly.
- d) The report shall include:
- 1) income and other circumstances relevant to the amount of the food stamp allotment; and
 - 2) changes in income, household composition and bank accounts affecting eligibility which the household expects to occur in the current month or future months or which occurred in the budget month.
- e) With monthly reporting, the household is required to provide verification of the following information each month:
- 1) gross earned income (for example, pay stubs);
 - 2) income and assets of an alien's sponsor and the sponsor's spouse; and
 - 3) questionable information (Information is considered questionable if information on the Monthly Report does not agree with statements of the recipient, other information on the Monthly Report or other information received by the local office).
- f) The household is required to provide verification of gross unearned income each month, if the information has changed since the last report.
- g) If the household does not provide the required verifications, the following actions are taken:
- 1) earned income - the Monthly Report is considered incomplete and food stamp Food-Stamp benefits are suspended;
 - 2) all other required verifications:
 - A) benefits are decreased, if the unverified reported change results in a decrease; or
 - B) if benefits would increase as a result of the unverified reported change, then no action is taken.
- h) All food stamp Food-Stamp households, which must report monthly, shall have benefits calculated by considering income and attendant

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DEPARTMENT OF PUBLIC AID

- H) A veteran's surviving spouse or child entitled to compensation for a service connected death or pension benefits for a non-service connected death from the Veterans Administration, if the spouse or child also has a disability considered permanent under Social Security requirements.
- I) A member receives federal, state, or local government disability pension and is considered permanently disabled under Social Security requirements.
- J) A member receives Railroad Retirement disability benefits.
- K) A member receives an annuity payment from Railroad Retirement and is eligible for Medicare.
- L) A member receives disability-related medical assistance benefits (Categories 92, 93 and P3 93) under Title XIX (Medicaid) of the Social Security Act.
- 2) For those veterans, surviving spouses, or children mentioned in subsections (a)(1)(F) and (G) of this Section, proof of receipt of VA disability benefits is sufficient verification of disability. For those veterans mentioned in subsection (a)(1)(E) of this Section, a verified statement in writing from the VA that the individual is totally disabled must be provided. To verify disability for those individuals mentioned in subsection (a)(1)(H) of this Section, the individual must provide a statement from the Social Security Administration or from a physician of the Medical Practice Act of 1987 [225 ILCS 60], or a licensed or certified psychologist under the Clinical Psychologist Licensing Act [225 ILCS 15] that the individual suffers from one of the disabilities listed in the preamble to Section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or if the disability is obvious, by observation of the caseworker (for example, permanent loss of use of both hands).

Household Size	Gross Income
One Person	\$ 810
Two Persons	1,087
Three Persons	1,364
Four Persons	1,642
Five Persons	1,919
Six Persons	2,196
Seven Persons	2,474
Eight Persons	2,751
Each Additional Member	+ 278

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

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circumstances on a retrospective basis except those participating in the AFDC Income Budgeting Project (see Section 170.50). The budgeting method used to calculate the cash grant is used to calculate the household's food stamp benefit level.

i) The Monthly Report must be received or postmarked by the seventh day of the next fiscal month or the first workday following the seventh day of the next fiscal month when the seventh is a Saturday, Sunday or holiday. If a household files a complete report after the scheduled due date but before the household has been terminated, the household shall be reinstated if determined eligible. (See 89 Ill. Adm. Code 101.20 for a definition of "fiscal month".)

j) At recertification, the household must complete a Request for Food Stamps. This Request for Food Stamps, along with the Monthly Report monthly-report form, is the application for recertification.

k) In lieu of a monthly report, General Assistance (GA) recipients in the City of Chicago, who are food stamp heads of households, Food-Stamp Heads-of-Households must comply with a review of their food stamp eligibility which will occur in conjunction with any redetermination of General Assistance. (See 89 Ill. Adm. Code 114.420.) The review will cover those elements specified in subsection (d) of this Section. Verification of eligibility factors will be required as specified in subsection (e) of this Section. This review is in addition to regular recertification which will occur once every 12 months.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 121.92 Retrospective Budgeting

a) All food stamp Food-Stamp households, except migrant households who are in the migrant job stream, shall have income and attendant circumstances, except shelter costs, budgeted on a retrospective basis. Shelter costs shall be prospectively budgeted except--migrant households-who-are-in-the-migrant-job-stream.

b) Head-of-Household-Receiver-Cash-Assistance-1) For households where the head Head of household Household receives cash assistance from the Department:

1) Eligibility for food stamps Food-Stamps is first determined on a prospective basis for all eligibility factors. If eligible on this prospective basis, the actual amount of benefits the household is entitled to receive shall be determined by budgeting income and attendant circumstances, except shelter costs, retrospectively. Shelter costs shall be budgeted prospectively. For AFDC or RRA households eligible on a prospective basis, the benefit amount is computed in the same manner as the cash payment beginning the second regular month of cash assistance.

2) At initial application, however, income and attendant circumstances shall be budgeted prospectively for two months

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before beginning retrospective budgeting in the third month, except for households whose earnings have been reduced due to a strike, voluntary quit, voluntary reduction in wages or who have less income from an assistance program because of an overpayment of Social Security Administration (SSA), SSI, AFDC or General Assistance.

2) Head-of-Household-Does-Not-Receive-Cash-Assistance

c) 1A) For households where the head Head of household Household does not receive cash assistance from the Department:

1) Eligibility and the amount of benefits shall be determined retrospectively at all times. However, at initial application households which will suffer serious hardship shall have eligibility and the amount of benefits determined by budgeting income and attendant circumstances prospectively for two months before beginning retrospective budgeting. Households which will suffer serious hardship are:

A) 1A) Households which have gained or expect to gain a new household member in the month of application;

B) 1A) Households entitled to expedited services, determined prospectively, for the month of application;

C) 1A) Households applying for cash assistance from the Department at the same time they are applying for Food Stamps;

D) 1A) Households who have lost their source of income prior to applying for Food Stamps or whose source of income has been significantly reduced prior to applying for food stamps Food Stamps. Income has been significantly reduced if the reduced income (minus 18% of earned income for work expenses) is less than the applicable AFDC Payment Level for that family size.

2) 1B) Households whose earnings have been reduced due to a strike, voluntary quit, voluntary reduction in wages or who have less income from an assistance program because of an overpayment of Social Security Administration (SSA) or SSI benefits are not entitled to consideration as a serious hardship household.

d) 1C) If a household becomes ineligible for food stamps Food-Stamps due to a periodic increase in recurring income (for example, a wage earner is paid every Friday and there are five rather than four paydays in a budget month) the household shall be suspended for a month rather than terminated.

e) 1D) The budget month is the fiscal month from which the Department uses actual income and attendant circumstances, except shelter costs which are budgeted prospectively, to determine the amount of benefits the household is entitled to receive. The payment month is the fiscal month which the food stamp benefits cover. The payment month is the second fiscal month following the budget month for cases subject to retrospective budgeting.

f) 1E) The budget month and payment month for each food stamp Food--Stamp

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case are determined by the schedule the household is in, which schedule also governs the approximate mailing date of the food stamp benefits:

SCHEDULE NUMBER	BUDGET MONTH AND PAYMENT MONTH DATES
00	1st through last Day of Calendar Month
01	1st through last Day of Calendar Month
02	1st through last Day of Calendar Month
03	1st through last Day of Calendar Month
04	7th through 6th Day of Calendar Month
05	10th through 9th Day of Calendar Month
06	14th through 13th Day of Calendar Month
07	17th through 16th Day of Calendar Month
08	20th through 19th Day of Calendar Month
09	22nd through 21st Day of Calendar Month

9) The above table applies to all food stamp Food-Stamp households whether or not they report monthly, and food stamp benefits are mailed at or near the beginning of the payment month.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Determination of Need (DON) and Resulting Service Cost Maximums (SCMs)
- 2) Code Citation: 89 Ill. Adm. Code 679
- 3) Section Numbers: Proposed Action:
679.50 Amendments
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: The Service Costs Maximums are being increased by 3% per the State Fiscal Year 1997 appropriation. The ratio was increased for both individuals served by the HSP Medicaid Waiver 650.50(b) and the AIDS waiver 650.50(c).
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This is not applicable to this Rulemaking.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429

Telephone number: (217)785-3896
TTY: (217)785-9301
- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

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corporations affected: n/a

B) Reporting, bookkeeping or other procedures required for compliance: n/a

C) Types of professional skills necessary for compliance: n/a
 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated at the time the July 1996 agenda was submitted.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
 SUBCHAPTER d: HOME SERVICES PROGRAM

PART 679

DETERMINATION OF NEED (DON) AND RESULTING SERVICE COST MAXIMUMS (SCMs)

Section
 679.10 General Provisions
 679.20 Composition of the DON
 679.30 Scoring of the DON Except for Respite Cases
 679.40 Scoring the DON for Respite Cases
 679.50 Service Cost Maximums (SCMs)

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5062, effective March 21, 1995; amended at 20 Ill. Reg. 6303, effective April 18, 1996; amended at 20 Ill. Reg. _____, effective _____.

Section 679.50 Service Cost Maximums (SCMs)

a) For each individual meeting the minimum required DON scores for eligibility (see 89 Ill. Adm. Code 682), there is a corresponding Service Cost Maximum (SCM) for his/her DON score which is the maximum amount that may be expended for services through HSP for an individual who chooses HSP services over institutionalization. This amount is directly correspondent to the amount the State would expect to pay for nursing care component of institutionalization if the individual chose institutionalization.

b) As of July 1, 1996 1995 the SCMs for individuals served under the HSP Medicaid Waiver are:

Total DON Score	SCM
29 through 32	\$ 690 670
33 through 40	861 836
41 through 49	957 929
50 through 59	1,146 1113
60 through 69	1,347 1300
70 through 79	1,456 1414
80 through 100	1,566 1520

c) As of October 1, 1996 1995 the SCMs for individuals served under the AIDS Medicaid Waiver are:

Total DON Score	SCM
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29 through 32 \$ 964 936
 33 through 40 1,446 17404
 41 through 49 1,928 17872
 50 through 59 2,410 27340
 60 through 69 2,892 27000
 70 through 79 3,374 37276
 80 through 100 3,856 37744

d) The SCM for individuals served through the Medicaid Waiver for Ventilator Assisted Individuals shall be no higher than the comparable institutionalized cost of care for the individual, less the costs for equipment and supplies.

e) The SCM for an individual may be exceeded on a monthly basis to meet a temporary increase in need for services as long as the average monthly cost for services during the twelve month period does not exceed the SCM. Such an increase in services shall not last more than 3 months.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Program Description
- 2) Code Citation: 89 Ill. Adm. Code 676
- 3) Section Numbers: Proposed Action:
676.300 Amendments
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: Section 300 is being amended to clarify the rule and add that customers over age 60, must concur with referral to Department on Aging's Community Care Program.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This is not applicable to this Rulemaking.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All request and comments should be submitted in writing to:

Ms. Susan Warner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, IL 62794-9429
(217) 785-3896
(217) 785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.
- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: n/a

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B) Reporting, bookkeeping or other procedures required for compliance: n/a

C) Types of professional skills necessary for compliance: n/a

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 676

PROGRAM DESCRIPTION

SUBPART A: GENERAL PROGRAM PROVISIONS

Section

676.10 Program Purpose and Types
676.20 General Program Accessibility
676.30 Definitions
676.40 Service Description

SUBPART B: CASE MANAGEMENT

Section

676.100 Case Files
676.110 Sharing of Customer Information Between HSP and Other DORS Programs
676.120 Documentation of Information
676.130 Required Customer Signatures and Information
676.140 Application by DORS' Employees, Individuals Holding Contracts with DORS, DORS Advisory Council Members, Family Members of DORS' Employees, or Close Friends of DORS' Employees
676.150 Geographic Case Assignment

SUBPART C: VENDOR PAYMENT

Section

676.200 Vendor Payment
676.210 Reporting and Collection of Misspent Funds

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DOA)

Section

676.300 Criteria for Referral to DoA
676.310 Disposition of Cases not Appropriate for Referral to DoA

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 20 Ill. Reg. 6315, effective April 18, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DOA)

DEPARTMENT OF REHABILITATION SERVICES

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Section 676.300 Criteria for Referral to DoA

In accordance with the provisions of the interagency agreement between DORS and DoA, individuals meeting the following criteria shall be referred to DoA to receive services through DoA's Community Care Program (CCP) and their HSP cases closed after the initiation of CCP services. These individuals are those who:

- a) are at least 60 years of age at the time of the referral to DoA;
- b) are receiving only homemaker services, adult day care services, home delivered meals, or any combination of these services; **and**
- c) have a DON score of at least 15 points on Part A, which includes the 10 points from the Mini-Mental Status Examination (89 Ill. Adm. Code 679.20(a)), if applicable, with a total score of not less than 29 points; **and**

d) have agreed to being referred to DoA to receive services.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Literacy Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 3040
- 3) Section Number:

3040.120	Amendment	<u>Proposed Action:</u>
3040.160	Amendment	
3040.170	Amendment	
3040.210	Amendment	
3040.220	Amendment	
3040.240	Amendment	
3040.330	Amendment	
- 4) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320].
- 5) A Complete Description of the Subjects and Issues Involved: The rules are revised to change application deadline dates and how some grant funds are paid to the grant recipient.
- 6) Will This Proposed Amendment Replace an Emergency Rule Currently in Effect? No
- 7) Does This Rulemaking Contain an Automatic Repeal Date? No
- 8) Does This Amendment Contain Incorporations By Reference? No
- 9) Are There Any Other Proposed Amendments Pending on This Part? No

10) Statement of Statewide Policy Objectives: The rules enable the Office of the Secretary of State/Illinois State Library to review and distribute grant funds in a more timely manner. The requirements of recently enacted State legislation which shortens the State lapse period are also addressed.

11) Time, Place, and Manner in Which Interested Persons May Comment on This Proposed Rulemaking: Written comments and questions should be mailed, faxed, or sent electronically within forty-five (45) days after publication of the proposed amendments in the *Illinois Register* to:

Ms. Kathleen L. Bloomberg
Associate Director for Administration
Illinois State Library
300 S. Second Street
Springfield, IL 62701-1796
217/785-0052
FAX: 217/782-6062
INTERNET: kbloom@library.sos.state.il.us

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12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Minor change with no significant impact on small municipalities.

B) Reporting, bookkeeping or other procedures required for compliance: Minor changes with no significant impact.

C) Types of professional skills necessary for compliance: Not applicable.

13) Regulatory Agenda on Which This Rulemaking Was Summarized: This rule was not included on either of the 2 most recent agendas because: The legislation impacting the State lapse period was not yet enacted. Additionally, upon review of the application deadline dates after the July regulatory agenda was published, staff determined that an earlier timeframe for reviewing grant applications and distributing grant funds was in the best interests of the grant applicants.

The full text of the Proposed Amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE B: CULTURAL RESOURCES
 CHAPTER I: SECRETARY OF STATE

PART 3040
 LITERACY GRANT PROGRAM

SUBPART A: LITERACY PROVIDER PROGRAM

Section	Purpose
3040.100	Purpose
3040.110	Definitions
3040.120	Application for Grant
3040.130	Review of Grant Applications
3040.140	Award of Grants and Recordkeeping
3040.150	Cancellation of Grant
3040.160	Audit Procedures
3040.170	Other Requirements
3040.180	Invalidity

SUBPART B: WORKPLACE LITERACY PROGRAM

Section	Purpose
3040.200	Purpose
3040.210	Definitions
3040.220	Application for Grant
3040.230	Review of Grant Applications
3040.240	Award of Grant, Financial Reports, and Program Progress Reports
3040.250	Cancellation of Grant
3040.260	Other Requirements
3040.270	Invalidity

SUBPART C: FAMILY LITERACY PROGRAM

Section	Purpose
2040.300	Purpose
2040.310	Definitions
2040.320	Eligible Applicants
2040.330	Grant Applications

AUTHORITY: Implementing and authorized by the State Library Act [15 ILCS 320].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15563, effective October 2, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 4916, effective March 11, 1986; amended at 11 Ill. Reg. 17258, effective October 15, 1987; amended at 15 Ill. Reg. 18757, effective December 17, 1991; amended at 16 Ill. Reg. 13084, effective August 15, 1992; amended at 17 Ill. Reg. 7234, effective May 10,

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1993; amended at 18 Ill. Reg. 4990, effective March 9, 1994; amended at 20 Ill. Reg. 5889, effective April 9, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: LITERACY PROVIDER PROGRAM

Section 3040.120 Application for Grant

- a) Requests for a grant shall be submitted to the LAB in writing postmarked no later than March 1st ~~October-15, 1985, for Fiscal Year 1986, and April-15th~~ for every fiscal year thereafter. Applicants shall use the forms prepared and made available by the Secretary of State for this purpose. Applications not submitted on time or on the required forms shall not be considered by the LAB.
- b) Applications shall be submitted to the Literacy Office, Illinois State Library, 431 South Fourth Street, Springfield, Illinois 62701.
- c) Applications shall be reviewed by the LAB. Awards shall be made on or after December 1, 1985, for Fiscal Year 1986 and on or after July 1 of every year thereafter for the fiscal year then commencing.
- d) Grants shall not exceed \$50,000 to any one grant applicant in Fiscal Year 1986. The maximum grant amount shall be determined by the Secretary basing his or her decision upon the amount of money appropriated by the General Assembly and the likely number of grant applications.
- e) Applications must be submitted in one (1) original and fifteen (15) copies.
- f) The first grant period shall be for a period of six (6) months, January 1, 1986, until June 30, 1986. Thereafter, the grant period shall be the fiscal year.
- g) Applications shall include the following information:
 - 1) The name of the literacy program for the community.
 - 2) The name and address of the grant applicant.
 - 3) The name and telephone number of grant project applicant's director or executive officer.
 - 4) The name, address, telephone number, Federal Employer Identification Number (FEIN), and signature of the grant applicant's fiscal officer, who will receive any approved grant and be responsible for the grant funds.
 - 5) The term of the literacy program.
 - 6) The total amount of grant money requested for the literacy program.
 - 7) A brief and explicit description of the literacy program purpose and goals.
 - 8) A statement supported by statistics (e.g., dropout rates, census figures on the education level of the local population, or the number of persons receiving public assistance) and other evidence, (statements from local officials, State Legislature requests, or community college reports) detailing the need for

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the literacy program in the particular community or geographic region of the grant applicant.
9) A statement of the instructional, promotional and training methods to be used by the grant applicant to meet its stated goals and objectives.

10) A statement of the grant applicant's plans to coordinate its effort with other community groups providing similar or related services, and to cooperate with other community groups, including education groups, volunteer organizations, governmental bodies, private business, and library organizations and a listing of participating agencies.

11) A statement detailing plans to evaluate projects objectives and program accomplishments by the grant applicant, including statistical data and how it is gathered and by whom and when.

12) A statement as to the continuation of the literacy program without further grants.

13) A list of all organizations which are participating agencies in the literacy program project proposed by the grant applicant including signatures of organization representatives.

14) The budget for the literacy project, setting forth the personnel costs, fringe benefits, (e.g., retirement benefits and health insurance) travel costs, equipment purchases, supplies, contractual services, and instructional materials, and any other expense necessary to operate the literacy program proposed in the grant application.

15) A statement as to the time schedule for the completion of project objectives of the literacy program within the grant year.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3040.160 Audit Procedures

- a) On or before September 1 of each year, the literacy grant recipient must conduct an audit of the program and its expenditure of the grant funds. Grant funds shall be accounted for using the modified accrual accounting method. The State Library will add funds to budgets of grant recipients to pay for audit costs. The literacy grant recipient shall select an independent certified public accountant to perform the audit in accordance with the United States General Accounting Office Government Auditing Standards - Standards for Audit of Governmental Organizations, Programs, Activities and Functions (Yellow Book), 1994 revision, no later editions. This document can be obtained through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. A copy of this document is also maintained for public inspection at the Illinois State Library, 300 South Second Street, Springfield, Illinois 62701. The results of this audit must be submitted to the State Library, Office of the Secretary of State.

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Failure to conduct the audit or failure to report the results to the State Library shall result in cancellation of any existing grants. The State Library shall withhold 10% of the grant funds until receipt and approval of the final program and financial reports. ~~of the audit~~

b) A grantee who does not comply with audit requirements will be ineligible to receive funds in any following fiscal year.

c) The provisions of this Section will not be applicable to entities that fall under the audit authority of the Auditor General of Illinois.

d) Entities electing to fulfill their audit requirements by submitting a "single audit" of their entity in accordance with the Single Audit Act of 1984 (31 U.S.C.A. Section 7501 et seq.) may do so. However, a schedule of revenues and expenditures for the grant, showing budget and actual amounts, must be included as a supplementary schedule in the audit report. Those entities electing to submit a "single audit" will not be subject to the September 1 deadline indicated in subsection (a) above. Single audits must be submitted within 30 days after release of the single audit report.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3040.170 Other Requirements

a) Testing

1) Plans for pre- and post-testing of students must be attached to the proposal application. The Slosson Oral Reading Test-Revised (SORT-R) must be used in student testing for semi-annual reports submitted to the State Library, Office of the Secretary of State. Programs are encouraged to use additional tests for their own purposes.

2) In the case of English As a Second Language (ESL) projects, professionally accepted tests must ~~should~~ be used, such as the Henderson - Moriarty ESL/Literacy Placement (HELP) List, which can be ordered from Regents/Prentice Hall, Order Department, 200 Old Tappan Road, Old Tappan NJ 07675; the ESLOA Oral Assessment, which can be ordered from Literacy Volunteers of America, Inc. 5795 Widewater Parkway, Syracuse NY 13214; the Comprehensive English Language Skills Assessment (CELSA), which can be ordered from Association of Classroom Teacher Testers, 1136 Clement Street, San Francisco CA 94118; the Test of English Proficiency Level (TEPL), which can be ordered from Language Teacher's Center, P.O. Box 98, The Sea Ranch CA 95497; the Basic English Skills Test (BEST), which can be ordered from Center for Applied Linguistics, 1118 22nd Street, NW, Washington DC 20037; the Foreign Service Institute Oral Proficiency Interview (FSI) (also known as ILR), which can be ordered from ETS, Princeton NJ 08541; the New York State Placement Test (NYS-Place Test), which can be ordered from The University of the State of New York, The State

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Education Department, Division for Program Development, Albany, New York 12234; and the Basic Inventory of Natural Language (BINL), which can be ordered from CHEC point Systems, Inc., 1520 North Waterman Avenue, San Bernardino CA 92404. All tests used must be described in the proposal. Results must accompany semi-annual and final reports.

3) In the case of students who enroll for math assistance only, the TABE math test must be used in testing for semi-annual reports submitted to the State Library, Office of the Secretary of State.

b) ~~Grant funds shall be paid to the literacy program in an amount not to exceed 60% of the total grant for the first of three payments. The second shall be made half way through the grant period for the balance amount of the approved grant, minus the 10% holdback amount for the audit required by Section 3040.160.~~

b) Equipment

1) Any equipment purchased by a literacy program from grant funds shall be the property of the State Library.

2) Any equipment purchased from grant funds, which equipment is no longer used by the grantee for literacy program purposes, shall be returned to the State Library. The equipment is "transferable property" as defined in Section 1.04 of the State Property Control Act (~~111 Rev. Stat. 1991, ch. 127, par. 133b-1~~) [30 ILCS 605/1.04]. The equipment shall be disposed of pursuant to the State Property Control Act (~~111 Rev. Stat. 1991, ch. 127, par. 133b-1 et seq.~~) [30 ILCS 605/1-1 et seq.].

c) No literacy grant program shall purchase with grant funds any equipment without the prior written consent and approval of the State Library. Approval will be granted by the State Library if the grantee demonstrates that the purchase is essential to the program and cannot be funded in any other way.

d) No literacy program shall transfer funds within the approved grant budget in excess of 10% of the budget line item from which the funds are transferred, without the prior written approval of the State Library. Approval will be granted by the State Library when justification is shown for why the transfer is necessary and how it will affect the goals and objectives of the project. Unapproved expenditures in excess of 10% of a budget line will not be paid for by the grant.

e) Costs for purchase of consultant services will not be allowed in the proposal budget unless the specific expertise required is not available at the applicant's agency or the State Library, Office of the Secretary of State. Justification must be provided if consultant services are purchased and a complete description of the work to be performed must also be provided. The proposed consultant must be mutually acceptable to both the grantee and State Library, Office of the Secretary of State, based on the consultant's prior experience and expertise in literacy programs.

f) A literacy grant monitor shall make a minimum of one site visit

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associations, or any combination thereof at the local or regional level.

"Community-based Organization" means a private or public not-for-profit organization, including volunteer organizations, located in an Illinois community, which provides services to citizens within that community and the surrounding area.

"Contractual Agency" means the educational provider(s) with whom the business will contract to perform any or all of the services necessary for the development or implementation of a workplace literacy program.

"Diagnostic Testing" means testing methods which indicate whether an adult employee has visual, auditory, or basic learning disabilities.

"Educational Skills Assessment" means testing methods which measure the ~~approximate-grade-level~~ of education skills possessed by adult employees, including reading, writing, comprehension, and computation abilities.

"Employer" means a private business, a government, or any entity employing for work purposes two or more persons not members of the employer's immediate family.

"Fiscal Year" means the fiscal year of the State of Illinois.

"Illiteracy" means the inability to read, write, comprehend, and/or compute above the 9.9 grade level.

"Illiterate Employee" means an adult whose minimal skills in reading, writing, comprehension, and/or computation preclude the individual from functioning in the workplace.

"Instructional Materials" means written materials and computer software programs which are used in teaching adult employees basic reading, writing, comprehension, and/or computation skills or which supplement the teaching of such skills.

"LAB" means the Literacy Advisory Board established by Section 7.2 of the State Library Act (~~111-Rev-Stat-1991-ch-120-par-107.2~~) (~~15 ILCS 320/7.2~~).

"Library" means the main facility for a tax-supported public library within an Illinois library system.

"Literacy" means the ability of an individual to read, write, comprehend, and/or compute above the 9.9 grade level.

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during the fiscal year. Additional site visits may be made at the discretion of the Literacy Office (for such reasons as poor recordkeeping, fiscal irregularities, monitor's/staff's request after viewing narrative reports, request by literacy program). Literacy monitors shall evaluate program effectiveness as directed by the LAB. It shall be the responsibility of the grant monitor to:

- 1) Review the process of the budget.
- 2) Review the grant budget and expenditures in the project to date.
- 3) Verify that the project plan is being implemented according to the proposal approved by the LAB.
- 4) Submit a written report on the progress of the project to the State Library Literacy Office following each site visit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: WORKPLACE LITERACY PROGRAM

Section 3040.210 Definitions

"Adult Educational Provider" means an education agency, association, library, volunteer or community-based organization, or a coalition thereof which currently provides instruction in literacy to persons 16 years or older who read below a tenth (10th) grade level.

"Adult Employee" means an individual in Illinois who has exceeded the maximum age for compulsory schooling (sixteen), is not currently enrolled in school (Article 26 of the School Code-~~111-Rev-Stat-1991-ch-120-par-26-1-et-seq~~) (~~105 ILCS 5/Art. 26 26-1-et-seq~~), and is employed by the business applicant.

"Application" means the written request for a workplace literacy grant submitted to the Literacy Office, Illinois State Library, Office of the Secretary of State pursuant to this Part. Applications shall be submitted by the legal entity responsible for the disbursement of public funds.

"Association" means any organization incorporated under the General Not-for-Profit Corporation Act of 1986 comprised of members with a common purpose and having a structure in conformity with that Act.

"Business" means a private, legal entity which employs workers and is a corporation, a sole proprietorship, a limited liability company, or a partnership.

"Coalition" means a structured cooperative effort between a library system, library or libraries, education agency or agencies, community-based organization or organizations, and association or

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"Secretary of State" means the Illinois Secretary of State.

"State Library" means the Illinois State Library, a department of the Illinois Secretary of State established pursuant to the State Library Act (431-Rev-Stat-1991-Chr-128-para-101-et-seq) (15 ILCS 320.4 et-seq).

"Workplace Literacy Program" means a structured program which provides direct instructional services in reading, writing, comprehension, and/or computation to adult employees.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3040.220 Application for Grant

- a) A request for a grant shall be submitted to the Literacy Office in writing postmarked no later than March 15 April 1 for each fiscal year. Applicants shall use the forms prepared and made available by the Secretary of State for this purpose. Applications not submitted on time or on the required forms shall not be considered for funding by the LAB.
- b) Applications shall be submitted to the Literacy Office, Illinois State Library, 431 South Fifth Street, Springfield, Illinois 62701.
- c) Applications shall be reviewed by the LAB. Awards shall be made on or after July 1st for the fiscal year then commencing.
- d) Grants shall not exceed \$10,000 to any one grant applicant.
- e) Applications must be submitted in one (1) original and nine (9) fourteen-114 copies.
- f) The grant period shall be the fiscal year.
- g) Applications shall include the following information:

- 1) The name and address of the business submitting the grant application.
- 2) The name, title, address and telephone number of the person at the business who will be responsible for administration of the program.
- 3) The name, address, telephone number, Federal Employer Identification Number (FEIN), and signature of the fiscal officer at the business who will receive any approved grant and be responsible for proper safeguarding of the grant funds. If a government employer does not have a FEIN, then some other identifying number must be given.
- 4) The term of the workplace literacy program.
- 5) The total amount of grant money requested for the workplace literacy program.
- 6) The total amount of funds which the business applicant will contribute to the workplace literacy program as a matching contribution, including personnel, equipment, supplies,

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instructional materials and other related expenditures, but not to include overhead costs such as space, heat, lights and furniture.

- 7) A Certification of Assurance signed by the Fiscal Officer which indicates that the business applicant has sufficient funds to pay the business matching share of the program cost.
- 8) A brief and explicit statement of the purpose and goals of the workplace literacy program.
- 9) A detailed statement of the plan of operation of the workplace literacy program and the proposed timeline for achieving objectives and goals including the anticipated number of employees who will be involved, and whether the proposed plan will include an educational skills assessment, development of a workplace literacy program, implementation of a workplace literacy program, support services for a workplace literacy program, or all of the above.
- 10) A statement about the adult educational provider(s) with whom the business applicant will contract to provide services necessary for the successful operation of the workplace literacy program including the name and address of the contracting agency, the name and telephone number of the agency party who will sign the contractual agreement and be responsible for obligations agreed upon in the contract, and a brief description of the agency or organization, specifically its qualifications for providing the agreed upon contractual services.
- 11) A statement outlining where workplace literacy program activities will take place and how often.
- 12) A statement detailing plans to evaluate the workplace literacy program including the types of records which will be kept, the person who will be responsible for maintaining such records, and the person who will be responsible for evaluating the progress and outcome of the workplace literacy program.
- 13) A statement of assurances signed by the Fiscal Agent of the business and the Fiscal Agent of the adult educational provider that the terms of the contract are mutually agreeable and the services described in the contract will be provided.
- 14) A statement of plans for continuation of the workplace literacy program, where needed as determined by the business applicant, after grant funds have been expended.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3040.240 Award of Grant, Financial Reports, and Program Progress Reports

- a) The LAB will make a recommendation to the Secretary of State as to which grant applications shall be approved and the amount of public

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funds to be awarded to fund each grant application based upon the criteria in Section 3040.230.

- b) The LAB shall make its recommendations by July 1 for each Fiscal Year.
- c) The Secretary of State shall make his or her final decision upon each recommendation as soon as possible within 60 days after the recommendation is presented to the Secretary. The Secretary of State shall approve or disapprove the recommendations of the Literacy Office based upon whether the Secretary determines the recommendations to be consistent with Section 5 of the State Library Act ~~§11-1-Rev-Stat-1991-CH-128-par-195~~ ~~§15 ILCS 320/5j~~ and this Part.
- d) The final approved grant application and the funding determination shall constitute the Workplace Literacy Grant Determination, which shall be a public record, as shall be the grant applications, whether approved or not, and shall be subject to disclosure pursuant to the Freedom of Information Act ~~§11-Rev-Stat-1991-CH-116-par-201-et-seq~~ ~~§15 ILCS 140-1-et-seq~~ and the rules of the Secretary of State found at 2 Ill. Adm. Code 551.
- e) Approved grant applicants shall submit to the Literacy Office the following reports: quarterly financial reports; midterm and final program progress reports.

- 1) The quarterly financial reports shall state the amount of money expended to date in each line item of the approved program budget and the amount of money expended to date by the business applicant as matching funds.

- 2) The midterm and final program progress reports shall state, at least:

- A) For an employee educational assessment, the number of employees tested, the method of testing used, the number of hours spent in testing, the results of that testing, the need for instructional services indicated as a result of that testing, if any, and the plans of the business applicant for addressing that need.
- B) For development of plans for a workplace literacy program, the target number of employees to be served, how this number was determined, where employees will receive instruction, the target number of hours for employees instruction, the method of instruction which will be provided, the amount of release time which will be allowed for employees who receive instruction, if any, and when the workplace literacy program will begin.
- C) For implementation of a workplace literacy program, the number of employees served to the date of the report, the net gain in education skills level of each employee receiving instruction, pre- and post-test scores of each employee receiving instruction, the number of hours each employee has spent in instruction, and the amount of release time allowed employees who have received instruction.
- D) For support services provided to a workplace literacy

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program, the type and extent of services rendered, the number of employees served through the support services, and the impact of support services on the workplace literacy program.

E) For all types of contractual services listed above, what has been the most positive outcome of the services, what problems, if any, have occurred in the delivery of these services, and to what extent the goals and objectives of these services have been met to the date of the report.

- 3) Failure to submit the required reports shall be cause for cancellation of the grant. Grant recipients shall receive one thirty (30) day notice requesting compliance with this Section before the grant shall be cancelled.

f) The final financial and program progress reports shall be submitted by each grant recipient to the Literacy Office on or before July 15 of each calendar year for the previous Fiscal Year's program.

g) The decision of the Secretary of State upon any grant application shall be a final decision for the purpose of the Administrative Review Law ~~§11-Rev-Stat-1991-CH-110-par-3-101-et-seq~~ ~~§735 ILCS 5/Art. III 3-101j~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART C: FAMILY LITERACY PROGRAM

Section 3040.330 Grant Applications

- a) Application requirements, including criteria, will be made available by the Illinois State Library by January ~~March~~ 15 for the ensuing year. The maximum grant amount, if any, shall be specified in the requirements. The Illinois State Library Advisory Committee shall provide assistance in developing the criteria for the grants. Applications shall be submitted to the Illinois State Library on or before ~~March 15~~ ~~May--1~~ for the ensuing year. Applications not submitted on time or on the required forms shall not be considered for funding.
- b) Grant criteria may include but are not limited to the following:
 - 1) Documented concentration of families with children at risk in the project area.
 - 2) Involvement of a paid staff person to coordinate all aspects of the program.
 - 3) A focus on reciprocal learning activities involving parents and children together.
 - 4) The use of volunteers in the program.
- c) Applications shall include the following information, at a minimum:
 - 1) The name and address of the applicant.
 - 2) The name and telephone number of the applicant's director or

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- executive officer.
- 3) The name, address, telephone number, and signature of the applicant's fiscal officer, who will receive any approved grant and be responsible for the grant funds.
 - 4) The beginning and ending dates of the family literacy program.
 - 5) The total amount of grant money requested for the family literacy program.
 - 6) A brief and explicit description of the program's goals and objectives and how the goals and objectives address the grant criteria included in the application requirements.
 - 7) A statement supported by statistics detailing the need for the literacy program in the particular community or geographic region of the grant applicant.
 - 8) A statement of the methods to be used by the grant applicant to meet stated goals and objectives.
 - 9) A statement of the applicant's plans to coordinate its efforts with other agencies cited in Section 3040.320 of this Part. The specific names of the other agencies to be involved in the program shall be cited along with a statement or letter from the agencies stating their responsibility to the program.
 - 10) A statement detailing plans to evaluate the program's objectives and accomplishments.
 - 11) A statement on how the program will be continued without further grants.
 - 12) The budget for the literacy program, including revenue sources, expenditures by category (personnel, fringes, travel, equipment purchases, supplies, contractual services, and other), and local financial and in-kind support for the project.
 - d) Applications shall be reviewed by the State Library staff in accordance with the criteria and requirements set forth in the application packet. When appropriate, the Director of the State Library may appoint a committee to assist in reviewing applications; such committee shall include membership from those types of agencies that are eligible to apply for the funds as defined in Section 3040.320 of this Part. The decision of the State Librarian is final.
 - e) The number of grants to be awarded is at the discretion of the State Librarian, within the confines of available funding.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Access to Facilities for Treatment, Storage, or Disposal of Low-Level Radioactive Waste
- 2) Code Citation: 32 Ill. Adm. Code 609
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
609.10	New Section
609.20	New Section
609.30	New Section
609.40	New Section
609.50	New Section
609.60	New Section
609.65	New Section
609.70	New Section
609.80	New Section
609.90	New Section
609.100	New Section
Appendix A	New Section
TABLE A-1	New Section
TABLE A-2	New Section
- 4) Statutory Authority: Implementing and authorized by Section 8 and 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/8 and 9], the Central Midwest Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141] and the federal Low-Level Radioactive Waste Policy Amendments Act of 1988 (P.L. 99-240).
- 5) Effective Date of Rulemaking: October 11, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: October 10, 1996
- 9) Notice of Proposal Published in Illinois Register: October 27, 1995 (19 Ill. Reg. 14930)
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
 - a) In Section 609.20, on line 114, by inserting (LLRW) immediately after the phrase "Low-Level Radioactive Waste".
 - b) In Section 609.30, on line 204, by adding "as" after "has".

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- c) In Section 609.40, on lines 287 and 294, by changing "regional facility" to "Regional Facility".
- d) In Section 609.40, on line 334 and 335, by changing the phrase "30 calendar days" to the phrase "6 months".
- e) In Section 609.40, on line 380, by changing "applicant" to "Applicant".
- f) In Section 609.40, on line 394, by changing "State" to "state".
- g) In Section 609.40, by deleting line 406 through 409.
- h) In Section 609.40, on line 410, by changing "k)" to "j)".
- i) In Section 609.40, on line 415, by changing "l)" to "k)".
- j) In Section 609.60, on line 443, by inserting "of" after "disposing".
- k) In Section 609.65, on line 517, by inserting the phrase "verbally or" immediately after the word "facility".
- l) In Section 609.65, on line 521, by inserting the phrase "at the receiving facility" immediately after the word "shipment".
- m) In Section 609.65, on line 562, by changing the phrase "30 days" to "the phrase "6 months".
- n) In Section 609.65, after line 572, by adding the following subsections to Section 609.65:
 - o) Any person needing to correct information previously provided to the TSO pursuant to this Section shall provide those corrections to the Department in writing addressed to the Chief, Division of Low-Level Radioactive Waste Management, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704.
 - p) If the tracking system is not functioning at the time shipper is ready to transmit an EDT file pursuant to this Section, the shipper may proceed with the shipment and shall:
 - 1) Telefax a copy of the shipment manifest to the TSO; and
 - 2) Transmit the EDT file information to the TSO when the tracking system is functional.
- q) In Section 609.70, on line 606, by deleting the comma after the word "located".

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- r) In Section 609.70, on line 659, by changing "shall" to "may".
- s) In Section 609.70, on line 660, by changing "unless such an" to "if such action is authorized by the General Assembly" and deleting lines 661 and 662.
- t) In Section 609.Table A-1, for Record Type "C01", "C02" and "C05", by inserting a "*" after the phrase "DOT Label".
- u) In Section 609.Table A-1, for Record Type "C01", "C02" and "C05", by inserting a "*" after the phrase "transport index".
- v) In Section 609.Table A-2, by changing "LLW" to "LLRW".
- w) In Section 609.Table A-2, by inserting in the Usage Code column, "UN2913" and in the Code Description column "Radioactive material, surface contaminated object" between "UN2912 and "UN2918".
- x) By changing the word "facility" to "Facility", and the word "facilities" to "Facilities" everywhere it appears in this Part.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Rule will establish a system for the regulation of the use of facilities in the State of Illinois to: (a) collect, store, treat or dispose of low-level radioactive waste; (b) maintain a data base as to the location of all waste in the State; and (c) implement some of the requirements, prohibitions and mandates of the Compact, the Radioactive Waste Enforcement Act and the Illinois Low-Level Radioactive Waste Management Act. This rule will also establish: (a) a system for monitoring and tracking shipments of low-level radioactive waste into, out of or within the State of Illinois for the purpose of tracking the points of origin of the shipments, as transported to the place of destination of the shipments; and (b) an enforcement and verification system for waste generated within the State. Further, this rule will apply to any generator, broker, owner or operator of any treatment or disposal facility, or to any person who sends low-level radioactive waste into, within or out of the State and to any facility which ships any low-level radioactive waste generated within the State.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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Thomas J. Carlisle
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9884 (voice)
(217) 782-6133 (TDD)

The full text of the Adopted Amendment begins on the next page:

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TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY

SUBCHAPTER d: LOW LEVEL RADIOACTIVE WASTE/TRANSPORTATION

PART 609

ACCESS TO FACILITIES FOR TREATMENT, STORAGE, OR DISPOSAL OF LOW-LEVEL
RADIOACTIVE WASTE

Section

609.10	Purpose and Applicability
609.20	Definitions
609.30	Prohibited Activities
609.40	Permit and Transaction Reference Number Requirements and Application Procedures
609.50	Standards for Issuance of Transaction Reference Number
609.60	Special Reporting Requirements
609.65	Transaction Reference Number and Waste Shipment Tracking Process
609.70	Suspension, Revocation or Voluntary Termination of Permits and Refusal to Issue Transaction Reference Numbers
609.80	Penalties
609.90	Exemptions
609.100	Administrative Appeal and Hearing
APPENDIX A	Electronic Data Transmission
TABLE A-1	Detailed listing of data elements
TABLE A-2	Data element definitions

AUTHORITY: Implementing and authorized by Sections 8 and 9 of the Illinois Low-Level Radioactive Waste Management Act (420 ILCS 20/8 and 9), the Central Midwest Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141] and the federal Low-Level Radioactive Waste Policy Amendments Act of 1985 (P.L. 99-240).

SOURCE: Adopted at 20 Ill. Reg. **13944**, effective
OCT 11 1996.

Section 609.10 Purpose and Applicability

- a) This Part establishes one of the systems for the regulation of the use of facilities in the State of Illinois to:
- 1) Collect, store, treat or dispose of low-level radioactive waste;
 - 2) Maintain a data base as to the location of all such waste in the State of Illinois; and
 - 3) Implement some of the requirements, prohibitions and mandates of the Compact, the Radioactive Waste Enforcement Act and the Illinois Low-Level Radioactive Waste Management Act.
- b) This Part establishes a system for monitoring and tracking shipments of low-level radioactive waste into, out of or within the State of

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Illinois for the purpose of tracking the points of origin of the shipments, as transported to the places of destination of the shipments.

- c) This Part establishes an enforcement and verification system directed to the movements of low-level radioactive waste into, out of or within the State of Illinois and shipments containing low-level radioactive waste generated within the State of Illinois.
- d) This Part applies to any generator, broker, owner or operator of any treatment or disposal facility, or to any person who sends low-level radioactive waste into, within or out of the State of Illinois and to any facility which ships any low-level radioactive waste generated within the State of Illinois.

e) This Part does not apply to:

- 1) Shipments of low-level radioactive waste that are sent or transported through the State of Illinois but do not originate in the State of Illinois and are not accepted for treatment, storage, collection or disposal at a location in the State of Illinois;
- 2) Naturally occurring radioactive materials, unless required to be licensed by the Department;
- 3) Radioactive materials exempt from licensing by the Department based upon regulatory or statutory determinations; and
- 4) Radioactive materials authorized for disposal under 32 Ill. Adm. Code 340.1030 and 340.1050.

f) This Part does not relieve any person from compliance with any other state, Commission or Federal requirements, including transport or licensing requirements, pertaining to the packaging, transportation, disposal, storage or delivery of low-level radioactive materials or wastes.

g) This Part does not relieve any person from compliance with any order, directive or rule of the Central Midwest Interstate Low-Level Radioactive Waste Commission, pursuant to its authority under the provisions of the Central Midwest Radioactive Waste Compact Act [45 ILCS 140].

Section 609.20 Definitions

Except where otherwise indicated, or where the context clearly requires a different definition, the following terms shall have the following meanings for purposes of this Part.

"Acceptance" means taking possession of waste. Waste is not "accepted" for purposes of this Part, if it is delivered to a facility, and the owner or operator of the facility refuses to take possession and promptly so informs both the person sending the waste and the Department's Tracking System Operator of such refusal.

"Broker" means any person who takes possession of low-level

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radioactive waste for purposes of consolidation and shipment. [420 ILCS 20/3]

"Carrier" means a person who transports Low-Level Radioactive Waste into, out of or within the State of Illinois.

"Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

"Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact.

"Consolidated Waste" means waste from more than one generator that has been consolidated into a single shipment of waste. However, separate containers of waste would not be classified as "consolidated waste".

"Department" means the Illinois Department of Nuclear Safety.

"Dispose" or "disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose. [45 ILCS 141/15]

"Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, that is used or is being developed by the owners or operators for the generation, collection, treatment, storage or disposal of low-level radioactive waste. [45 ILCS 141/15]

"Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity. [420 ILCS 20/3]

"Low-Level Radioactive Waste (LLRW)" or "Waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in Section 11e(2) of the Atomic Energy Act (42 USC 2021). This definition shall apply notwithstanding any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control. [45 ILCS 141/15]

"Permit" means the license authority issued by the Department upon application which authorizes the person identified by that number to apply for a transaction Reference Number from the Department to either send waste to a facility for treatment, storage, consolidation or disposal or to receive waste at a facility for treatment, storage, consolidation or disposal.

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"Person" means any individual, corporation, business enterprise or other legal entity, public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise or legal entity. [45 ILCS 141/15]

"Region" means the geographical area of the State of Illinois and the Commonwealth of Kentucky. [45 ILCS 141/15]

"Regional Facility" means any Facility as defined in the Radioactive Waste Compact Enforcement Act that is located in Illinois and established by Illinois pursuant to designation of Illinois as a host state by the Commission.

"Shipper" means a person, whether located within or outside of the Region that offers Waste for transportation into, within or out of the State of Illinois.

"Storage" means the temporary holding of radioactive material for treatment or disposal. [45 ILCS 141/15]

"Tracking System Operator" or "TSO" means the operator of the electronic data collection and transmission system which is used by the Department to track the movement of Waste into, out of and within the State of Illinois. These ministerial duties are performed under the direction and control of the Department.

"Transaction Reference Number" means a number issued by the TSO under this Part which authorizes a person to send Waste to a Facility for treatment, storage, consolidation or disposal.

"Transport" means the movement of Waste into, within or out of the State of Illinois.

"Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume. [45 ILCS 141/15]

Section 609.30 Prohibited Activities

- a) Unless the shipment of the Waste is specifically authorized under a Transaction Reference Number issued to a valid permit holder, in accordance with this Part or unless the requirement for a Transaction Reference Number is exempted in accordance with the provisions of this Part, no person shall:

- 1) Send Waste from any point located outside of the State of

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Illinois to any Facility located within the State of Illinois, regardless of its origin.

- 2) Send any Waste, regardless of origin, from within the State of Illinois to any Facility in the State of Illinois.

- 3) Accept at any Facility in the State of Illinois any Waste from outside the Region, regardless of origin.

- 4) Accept any Waste, regardless of origin, from within the State of Illinois at any Facility in the State of Illinois.

- 5) Deposit at any Regional Facility in the State of Illinois any Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

- 6) Accept at any Regional Facility in the State of Illinois any Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

- 7) Send any Waste from the State of Illinois outside the State of Illinois, other than Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

- 8) Dispose of any Waste in the State of Illinois other than at a Regional Disposal Facility.

- b) No person who provides as a service the arranging for the collection, transportation, treatment, storage or disposal of Waste from outside the Region shall dispose of any Waste, regardless of origin, at a Facility in Illinois, unless specifically authorized by a valid Transaction Reference Number issued in accordance with this Part.

- c) No person shall send to any Facility in Illinois or accept at any Facility in Illinois any Waste that has as its place of origin the Disposal Facility located at Maxey Flats, Kentucky.

- d) No generator, broker, Facility or other person shall send or accept any Waste for which a Transaction Reference Number is required under this Part without complying with the requirements of this Part, including all Department Tracking System Operator notification requirements.

Section 609.40 Permit and Transaction Reference Number Requirements and Application Procedures

- a) Any person who undertakes an activity for which a Transaction Reference Number is required under this Part must first apply to the

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Department for a Permit.

1) A person applying for a Permit shall submit the application to the Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704. The person shall provide to the Department at the time of the application the following information in writing, on paper bearing the name, current address and current telephone number of the person making the application and signed in ink by a person authorized to make the application:

- A) The name of a contact person for the applicant and the current address and phone number of that contact person if different from that of the applicant.
- B) The radioactive materials license number currently issued to the applicant and the name of the entity issuing the license.
- C) The name and location of the applicant's Facility which would be recorded under any assigned Permit.

2) A person shall be eligible to receive a Permit only if the person is:

- A) A generator or broker registered by the Department under Section 4 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/4];
- B) A Facility licensed by the Department under Section 8 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/8];
- C) A generator, broker, treatment Facility or other person located outside of the State of Illinois. The out-of-state entity must be a party to an agreement with the Compact which is in effect on the date of the Permit application, or as otherwise authorized by the Commission. The agreement with the Compact must provide that waste from that unaffiliated state or regional compact is currently permitted to be treated, stored or disposed of at a Facility in the Region and that the Commission has not revoked the permission granted to such person, state or regional compact allowing these shipments;
- D) A generator, broker, treatment Facility or other person located outside of the State of Illinois that is allowed to send waste for treatment or storage in Illinois, pursuant to an agreement entered into by the Commission;
- E) A generator, broker, treatment Facility or other person located outside of the State of Illinois that is allowed to send waste for disposal in Illinois, pursuant to an agreement entered into by the Commission and approved by law in Illinois;
- F) A generator, broker, treatment Facility or other person located in the Commonwealth of Kentucky; or
- G) A generator that is an agency of the United States government that is located in the Region.

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3) A generator applying for a Permit must certify to the Department in the written application for the Permit that it will make lawful and suitable arrangements for the final disposition of the waste, or that it will retrieve and reclaim physical possession of such waste in the event final disposition or storage has not been arranged.

4) Within 14 calendar days from the receipt by the Department of the application, the Department will issue, in writing, a permit to an eligible applicant whose application complies with all of the relevant requirements of this Section. Denial by the Department of any application within this same time period shall also be in writing, citing the reason for such action.

b) Any person to whom the Department has issued a Permit may apply to the TSO for a Transaction Reference Number to undertake any one of the following activities:

- 1) Send any waste from outside the State of Illinois to any Facility within the State of Illinois, so long as such waste originated from the Commonwealth of Kentucky, or from an unaffiliated state or a regional compact which has a currently enforceable agreement with the Commission permitting such activity or as authorized by the Commission.
- 2) Send to any Regional Facility in the State of Illinois any waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon, provided that the forwarding of any such waste to a Regional Facility located in Illinois shall have received prior Commission approval.
- 3) Send any waste from the State of Illinois to a location outside of Illinois, provided that a Transaction Reference Number is not required to send waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.
- 4) Dispose of any waste in the State of Illinois at a Facility other than a Regional Disposal Facility, provided that any such disposal shall have received prior Commission approval.
- 5) Send any waste, regardless of origin, from the State of Illinois to any Facility in the State of Illinois.
- 6) Any other activities as mentioned in Section 609.30(a) of this Part.
- c) Unless otherwise expressly provided for in this Part, a Transaction Reference Number shall be required for each shipment of waste that a person sends into, within or out of the State of Illinois for collection, treatment, storage or disposal.

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- d) To apply for a Transaction Reference Number, an eligible person shall contact the TSO. The applicant shall provide the TSO with the information required by this Part. The Department shall have access to all of the required information generated from this application procedure.
- e) A person applying for a Transaction Reference Number shall provide the TSO at the time the person applies for the Transaction Reference Number with the following information:
- 1) The name and address of the applicant and of the Facility or location from which the waste will be sent.
 - 2) Specific notification that the purpose of the communication is to advise the TSO of the person's intent to ship waste.
 - 3) The Permit Number of the applicant.
 - 4) The name or Permit Number of the Facility or location to which the waste will be sent.
 - 5) The name of the person who will transport said waste, if known.
 - 6) The estimated shipping date.
- f) The term of a Transaction Reference Number, issued as authorization for a particular shipment, shall not exceed 6 months from the date of issuance.
- g) Upon being contacted by a person who is applying for a Transaction Reference Number, the TSO, as an agent of the Department, will:
- 1) Obtain from the person the information required by this Part. However, should an applicant fail or refuse to provide this information, the TSO shall be prohibited from issuing a Transaction Reference Number. The TSO will immediately contact the Department concerning the application, thereby allowing the Department to make a direct inquiry to the person regarding the alleged deficient information situation; and
 - 2) Process the application for the Transaction Reference Number, including verifying that the person intending to ship the waste and the Facility to which the waste, is intended to be shipped, both have a valid Permit issued by the Department; and
 - A) If the requirements of this Part have been met, issue a Transaction Reference Number and record the date and time of the issuance of the Transaction Reference Number; or
 - B) If either the person applying for the Transaction Reference Number or the Facility or location to which the waste is to be sent does not have a valid Permit, the TSO shall immediately advise the Department of such deficiency. The Department may contact the person or the Facility for clarification and/or issue a written notice of denial. The notice of denial shall be dated and cite the basis for which the Transaction Reference Number was denied. The Department shall promptly issue to the person or Facility a written notice by mail, notice of the refusal to issue the Transaction Reference Number and the reason for such refusal, pursuant to the procedure for notice in Section

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- 609.70(f) of this Part.
- h) Each application for a Transaction Reference Number shall be deemed to constitute consent by the applicant that, in the event that the Transaction Reference Number is granted, the applicant consents and agrees to:
- 1) The designation of the Director, Department of Nuclear Safety, to be the true and lawful attorney-in-fact upon whom may be served all legal process in any action or proceeding by the State of Illinois against the Applicant for any violation of this Part growing out of the sending or acceptance of the waste that is the subject of the application and the agreement of the Applicant that the process against him which is so served shall be of the same legal force and validity as though served upon the Applicant personally, provided the Director or his designee sends notice of such service and a copy of the process within three calendar days to the Applicant at the address of the Applicant as shown on the application.
 - 2) Submit to the jurisdiction of the court of competent jurisdiction in the State of Illinois, to the exclusion of all other courts of any other state, any civil or criminal legal action initiated by the State of Illinois or the Department arising out of or relating to the Applicant's use of the Transaction Reference Number issued by the Department.
 - 3) Comply with all applicable Illinois and Federal laws and regulations as well as all provisions of the Compact and all provisions of any interregional or interstate agreement between Illinois or the Commission and the state in which the applicant is physically located.
 - 4) Allow the Department or any agency with which the Department has an intergovernmental agreement to inspect any permitted shipment of waste from and after the time at which the waste is packaged for shipment until such time as that waste is removed from the packages in which it is shipped.
 - i) A person applying for a Transaction Reference Number must disclose to the TSO in the application for the Transaction Reference Number that the person has made lawful and suitable arrangements for the final disposition, temporary storage, or physical retrieval of any waste.
 - j) After receiving a Transaction Reference Number, no person may send into, within or out of the State of Illinois any shipment of waste without first complying with the requirements of the Transaction Reference Number tracking process set forth in Section 609.65 of this Part.
 - k) The issuance of a Transaction Reference Number does not relieve any person who sends or accepts waste from outside of the State of Illinois for treatment, storage or disposal in the State of Illinois from also securing the necessary approvals from the Commission or approvals otherwise required by the applicable laws of any state.

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- a) Based upon transmitted information provided via computer, telephonic or written correspondence to the TSO, the TSO shall issue a Transaction Reference Number upon determining that the:
- 1) Applicant has complied with the requirements of this Part;
 - 2) Activity to be authorized is not prohibited by any provision of the Compact, the Radioactive Waste Compact Enforcement Act or this Part; and
 - 3) Activity has received approval from the Commission, if so required under the provisions of the Compact.
- b) No Transaction Reference Number issued under this Part shall be transferrable.

Section 609.60 Special Reporting Requirements

- a) Sealed source and device manufacturers, radiopharmacies, nuclear laundries, radiopharmaceutical companies, and spent fuel transportation cask maintenance and decontamination operations located within Illinois are permitted to accept waste for treatment, collection, consolidation and storage, subject to the following conditions:
- 1) Waste may be accepted only from generators within the Region or from generators in states or compact regions whose governing bodies have agreements with the Commission that authorize such receipt of Waste, provided the generator has not had its access to the Region revoked under said agreements.
 - 2) Waste shall not be accepted solely for the purpose of disposing of such Waste in the State of Illinois, unless the disposal of such Waste has been approved by the Commission.
 - 3) A nuclear laundry that launders a radioactively contaminated item from outside the State of Illinois shall not dispose of the item in the State of Illinois, but shall return the item to the person who shipped it into the State of Illinois, provided that this prohibition shall not apply to process Waste. Process Waste as used in this subsection shall mean Waste that is generated from the laundering process that does not remain on or a part of the laundered item.
- b) Persons within and outside the State of Illinois are permitted to ship waste to sealed source and device manufacturers, radiopharmacies, radiopharmaceutical companies, nuclear laundries, and spent fuel transportation cask maintenance and decontamination operations, subject to the following conditions:
- 1) Waste may be shipped only from generators within the Region or from generators in states or compact regions whose governing bodies have agreements with the Commission that authorize such shipments of Waste.
 - 2) The shipment of Waste from outside the State of Illinois shall

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- not be solely for the purpose of disposing of such Waste in the State of Illinois.
- 3) A person who sends a radioactively contaminated item into the State of Illinois to a nuclear laundry shall accept the return of the item.
 - c) No less frequently than every 120 calendar days, a Facility accepting Waste under the provisions of subsection (a) of this Section shall report the following information to the TSO:
 - 1) The name of the Reporting Party.
 - 2) The date of the Reporting Party's acceptance of the waste.
 - 3) The name of the Party sending the waste.
 - 4) Composition or type of waste in shipment.
 - 5) Volume of waste in shipment.
 - 6) Disposition of the waste in shipment and date of disposition.
 - d) Information contained in subsection (c) of this Section may be reported to the TSO in a data file through electronic data transmission, provided that prior arrangements have been made with the TSO at least 30 days prior to the first electronic data transmission of such information. All such electronic data transmission shall be made in a manner that allows the TSO to incorporate said transmission into the TSO's electronic data base.
 - e) The special reporting requirements of this Section shall supersede any conflicting permit requirements elsewhere stated in this Part, and no Transaction Reference Number or Permit shall be necessary to send or accept Waste under this Section.

Section 609.65 Transaction Reference Number and Waste Shipment Tracking Process

- a) Any person sending a shipment of waste to a broker located in the State of Illinois who will take possession of the waste at the broker's Facility shall contact the TSO at 1-800-274-9784 and provide the TSO with the following information at the time of shipment:
- 1) Transaction Reference Number;
 - 2) Consignor name;
 - 3) Consignee name;
 - 4) Tractor or trailer numbers if known;
 - 5) Number of containers;
 - 6) For each container:
 - A) The container number;
 - B) Waste type code;
 - C) Total activity and the unit of measure;
 - D) Prominent isotope; and
 - E) The activity of the prominent isotope and unit of measure; and
 - 7) Date of the shipment.
- b) Any person sending a shipment of waste into, within or out of the State of Illinois that is not specified in subsection (a) of this

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Section shall provide the TSO with an electronic data transmission file formatted and containing the information as prescribed in Appendix A of this Part at the time of the shipment. All electronic data transmission shall be made in a manner that allows the TSO to incorporate the transmission into the TSO's electronic data base.

c) The person sending a shipment of waste shall provide the Transaction Reference Number to the receiving Facility verbally or in writing at or before the time that the shipment arrives.

d) The person accepting a shipment of waste for which a Transaction Reference Number has been issued shall, within 24 hours after arrival of the shipment at the receiving Facility, report the receipt of the shipment to the TSO. In particular:

- 1) Illinois brokers shall provide the TSO with an electronic data transmission file containing the information regarding the received shipment formatted and containing the information as prescribed in Appendix A of this Part. All electronic data transmission shall be made in a manner that allows the TSO to incorporate the transmission into the TSO's electronic data base.
- 2) All other receiving Facilities shall contact the TSO at 1-800-274-9784 and report the Transaction Reference Number, number of containers and the date received.

e) All receiving Facilities rejecting a shipment or a container(s) at the time of shipment receipt shall immediately notify the TSO at 1-800-274-9784 and report the rejected container or shipment. For rejected container(s), the receiving Facility shall report to the TSO the Transaction Reference Number and the rejected container number(s). For a rejected shipment, the receiving Facility shall report to the TSO the Transaction Reference Number. The destination of the rejected shipment or container(s) shall be assumed to be the sending Facility. The sending Facility must notify the TSO within one working day of the true destination of the rejected shipment or container(s).

f) A receiving Facility rejecting a shipment or a container(s) after the shipment has been reported to the TSO as received shall treat the return shipment as a new shipment complete with the reporting requirements contained in this Part.

g) All receiving Facilities that store waste for decay in storage shall report to the TSO the placement of waste into decay in storage according to the procedures outlined in Appendix A. The receiving Facilities must also report to the TSO when the containers are removed from the decay in storage inventory utilizing the procedures identified in Appendix A.

h) All receiving Facilities that process waste such that no waste, either direct or residual, is attributable back to the shipper must report those affected containers according to the procedures identified in Appendix A of this Part.

i) Upon receipt of the data file information from a person accepting a shipment of waste at a Facility for which a Permit has been issued, the TSO shall verify the following:

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- 1) That the sending and receiving Facilities have valid Permits.
- 2) That the shipment took place not more than 6 months after the date of issuance of the corresponding Transaction Reference Number for said shipment.
- 3) In the case of a consolidated shipment of waste from a broker or treatment Facility, that the containers and volume amounts correspond with the information previously provided to the TSO from the Facility forwarding the waste.
- j) The person to whom the Transaction Reference Number was issued shall immediately notify the TSO of any changes in any of the information previously provided to the TSO under Section 609.40 of this Part.
- k) Any person needing to correct information previously provided to the TSO pursuant to this Section shall provide those corrections to the Department in writing addressed to the Chief, Division of Low-Level Radioactive Waste Management, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704.
- l) If the tracking system is not functioning at the time shipper is ready to transmit an EDT file pursuant to this Section, the shipper may proceed with the shipment and shall:
 - 1) Telefax a copy of the shipment manifest to the TSO; and
 - 2) Transmit the EDT file information to the TSO when the tracking system is functional.

Section 609.70 Suspension, Revocation or Voluntary Termination of Permits and Refusal to Issue Transaction Reference Numbers

a) The Department may revoke or suspend any Permit issued under this Part, for any reason, including but not limited to any of the following conditions:

- 1) The individual to whom the Permit was issued is determined by the Department to no longer be alive or to have been adjudged legally incompetent.
- 2) The person to whom the Permit was issued, if other than an individual, is determined by the Department to no longer be legally in existence.
- 3) Any person eligible for a Permit pursuant to Section 609.40(a)(2)(A) of this Part is no longer registered by the Department under Section 4 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/4].
- 4) Any person eligible for a Permit pursuant to Section 609.40(a)(2)(B) of this Part is no longer licensed by the Department under Section 8 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/8].
- 5) The compact region or unaffiliated state in which the person is eligible for a Permit pursuant to Section 609.40(a)(2)(C) of this Part is located no longer has an agreement with the Compact that allows that person's waste to be treated, stored or disposed of at a Facility in the Region.

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- 6) Falsification of any information in an application for a permit.
- 7) Failure to notify the Department of any change in the information previously provided to the Department in application for a Permit.
- 8) If the Commission has revoked the permission granted to such person under any compact region or unaffiliated state agreements to treat, store or dispose of Waste at a Facility in the Region.
- 9) For any violation of the Radioactive Waste Compact Enforcement Act or for violation of any condition imposed by any approval or interstate agreement of the Commission.
- b) The TSO, as an agent of the Department, may refuse to issue any Transaction Reference Number as provided under this Part, for any reason, including but not limited to any of the following conditions:
 - 1) Violation of any provision of this Part, the Radioactive Waste Compact Enforcement Act, the Compact, or any approval or interstate agreement of the Commission.
 - 2) Failure to pay any civil penalty imposed by the Department under this Part.

3) Falsification of any information in a Transaction Reference Number application.

4) Any other reason as shown in subsection (a) of this Section.

- c) The Department will notify the Commission of any suspension, emergency suspension or revocation of any Permit and of any refusal to issue a Transaction Reference Number. In addition, all alleged violations which could affect the issuance of a Transaction Reference Number or the retention, classification, or validity of a Permit will be reported to the Commission by the Department. The notification will be in writing, on a quarterly basis, including all reported and alleged violations, as well as the particular instances in which the Department concluded that official action under this Part was either not merited or not necessary.

d) In the event that the Commission withdraws or modifies the terms of its approval to engage in an activity authorized by a Transaction Reference Number issued under this Part, the Department will not issue subsequent Transaction Reference Numbers for other later shipments which would be in conflict with the Commission's determinations. Previously issued Transaction Reference Numbers assigned to pending shipments shall remain valid for their respective terms, unless such an interpretation would be contrary to the Commission's specific intentions.

e) In the event that the General Assembly of Illinois revokes any agreement entered into by the Commission that allows any activity authorized by a Transaction Reference Number issued under this Part, the Department will refrain from issuing any subsequent Transaction Reference Numbers for other shipments which would be contrary to such legislative action. Previously issued Transaction Reference Numbers assigned to pending shipments may remain valid for their respective remaining terms, if such action is authorized by the Illinois General

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f) Any pending action by the Department to suspend or revoke a Permit or action for the denial of a Transaction Reference Number shall be initiated by written notice to the Permit holder or applicant, specifying the reasons for such action and the right to a hearing on the determination of the Department, pursuant to the terms of the Illinois Administrative Procedure Act [5 ILCS 100]. No suspension or revocation shall take effect prior to the issuance of a final order from the administrative hearing proceeding, except as outlined in subsection (g) of this Section.

g) The Department may also issue a preliminary Summary Suspension Order against any person holding a particular Permit or Transaction Reference Number who is also subject to a pending administrative hearing which could result in the revocation or suspension of the same Permit or Transaction Reference Number, provided that:

- 1) The Department finds that the public interest, safety or welfare requires such immediate action; and
- 2) Specific, factual reasons for such emergency action are also included in the Department's written "Notice of Hearing", advising the Permit or Transaction Reference Number holder of the pending administrative proceeding.

AGENCY NOTE: Any such subsequent hearing proceedings shall be promptly instituted and determined.

h) A party to whom a Transaction Reference Number or Permit has been issued may voluntarily terminate the Transaction Reference Number or Permit by mailing to the Department written notice that the particular authorization is being voluntarily terminated. The termination shall be effective upon receipt by the Department of said notice. The notice shall set forth the name and address of the person to whom the Permit or Transaction Reference Number was issued. Voluntary termination of Transaction Reference Numbers shall require the:

- 1) Transaction Reference Number being terminated;
- 2) Date of its issuance; and
- 3) Permit Number of the person terminating the particular Transaction Reference Number.

i) No person shall voluntarily terminate a Transaction Reference Number or a Permit if the person to whom the Permit or Transaction Reference Number has been issued has offered a shipment of Waste for transportation into, within or out of the State of Illinois and that shipment of Waste has not either returned to the shipper or been accepted at a facility properly authorized to dispose of that shipment of Waste.

Section 609.80 Penalties

a) The Department may impose a civil penalty on any person who sends, receives or accepts Waste in violation of any provision of this Part or the Radioactive Waste Compact Enforcement Act.

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- b) Civil penalties imposed under this Part shall not exceed \$100,000 per occurrence. For a continuing violation, the Department may consider each day in which the violation continues as a separate occurrence.
- c) In determining the amount of a civil penalty imposed under this Part, the Department will consider the following:
- 1) Whether the violation was the result of willful, reckless or negligent conduct.
 - 2) The previous history of compliance with the provisions of the Radioactive Waste Compact Enforcement Act and this Part.
 - 3) Whether the violation was voluntarily reported to the Department.
 - 4) The amount and type of the radioactive material involved.
 - 5) Whether mitigative actions were taken.
 - 6) The recommendations, if any, of the Commission.
- d) The Department will notify the Commission when it initiates a civil penalty action and request the Commission's recommendations, if any, as to the civil penalty the Department seeks to impose. The Department shall also notify the Commission of any imposition of a civil penalty by the Department.
- e) Imposition of a civil penalty shall be by written order, specifying the reasons for and amount of the penalty. The order shall include a notice of the right to an administrative appeal and hearing, in accordance with the provisions of Section 609.100 of this Part. The order shall be served either personally or by registered or certified mail. Notice of the order shall be effective as of the date of such personal service or receipt of the mailed notice.
- f) Unless the right of administrative appeal and hearing, provided in Section 609.100 of this Part, is exercised, any civil penalty imposed shall be payable within 60 days after the effective date of notice of imposition of such penalty.
- g) The Department will inform the Attorney General and the Commission of any failure to pay any civil penalty imposed under this Part. Any person who refuses to pay a civil penalty assessed under this Part shall be liable in an amount not to exceed 4 times the amount of the penalty not paid.
- h) Section 30(d) of the Radioactive Waste Compact Enforcement Act [45 ILCS 141/30(d)] provides a criminal penalty for any person who intentionally violates Section 20(a)(1), (a)(2), (a)(3), (a)(4) or (a)(6) of that Act. If the Department becomes aware of a possible intentional violation of those Sections of the Act, the Department shall make a report to the Attorney General or State's Attorney for criminal prosecution of the offender.

Section 609.90 Exemptions

- a) Any person may apply to the Department for an exemption from the requirements of this Part.
- b) A request for an exemption shall be in writing and shall state with particularity the reasons why granting such an exemption would be

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- c) Exemptions shall only be granted by the Department upon an express finding by the Department that granting the exemption would be consistent with the provisions of this Part and the Compact. In making such determinations, the Department shall consider the recommendations, if any, of the Commission.
- d) Exemptions granted under this Part may be limited in scope or duration, or may be conditional, providing that such limits or conditions are consistent with the Compact.
- e) Any exemption granted under this Part shall not be in conflict with any provision of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20], the Central Midwest Interstate Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141], or the Low-Level Radioactive Waste Policy Amendment Act of 1985 [P.L. 99-240].
- f) The Department will provide the Commission with written notice of any exemption granted pursuant to this Part.

Section 609.100 Administrative Appeal and Hearing

- a) Any person may petition the Department for reconsideration of any:
- 1) Denial by the Department to issue a Permit, or refusal of the TSO to issue a Transaction Reference Number to such person; or
 - 2) Summary suspension of a Transaction Reference Number or Permit issued to such person; or
 - 3) Civil penalty imposed on such person.
- b) Such petition shall be made in writing, shall be directed to the Manager, Office of Environmental Safety, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois, 62704, and shall state concisely and with particularity the reasons for the petition. The Department will provide a copy of the petition to the Commission.
- c) Any person petitioning the Department for reconsideration has the right to a hearing before the Department. The request for such a hearing must be filed with the petition. Such petitions shall be filed within 30 calendar days after notice of the:
- 1) Denial of a Transaction Reference Number or Permit;
 - 2) Emergency suspension of a Transaction Reference Number or Permit; or
 - 3) Imposition of a civil penalty.
- d) Failure of a petitioner to comply with the requirements of this Part with respect to petitions for reconsideration or requests for a hearing shall be grounds for denial of the petitioner's request.
- e) All hearings under this Part, as well as administrative hearings ordered by the Department which could result in the revocation or suspension of a previously issued Permit to a person, shall be governed by the procedures set forth in the Illinois Administrative

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Procedure Act [5 ILCS 100] and in 32 Ill. Adm. Code 200. The Department will provide notice of these hearings to the Commission.

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Section 609.APPENDIX A Electronic Data Transmission

Any person required under Sections 609.65(b), (d)(1), (g) or (h) of this Part to report shipment information to the Tracking System Operator (TSO) must prepare an Electronic Data Transmission (EDT) file for submittal to the TSO. This EDT file contains the pertinent information regarding the shipment in general (consignee, consignor, etc.) and the waste in detail (waste type, volume, activity, isotopes, etc.). The EDT files are ASCII files with comma delimited records. The EDT files are comprised of a variety of record types, which are used based on the type and source of the shipment (original shipment versus a consolidated shipment, in or out of state shipment, etc.). The files are submitted to the TSO in electronic format via a modem over standard phone lines to a toll free telephone number.

A) EDT FILE RECORD TYPE DESCRIPTION

a) The information regarding the shipment of low-level radioactive waste (LLRW) contained in the EDT file is provided using the five different types of records. Each record type focuses on a specific aspect of the shipment. The record types are described below:

- 1) The "M" (Manifest) record contains the summary information about the waste shipment. This information is summary level information that is normally contained on the shipping papers prepared to accompany the shipment.
 - 2) The "C" (Container) record contains information about the waste container. This information details for each container comprised in the shipment the contents of that container.
 - 3) The "W" (Waste Type) record contains information about the waste type(s) in the container. Detailed information regarding the waste form contained in each container is provided using the "W" record.
 - 4) The "I" (Isotope) record contains information about the isotopes contained in each waste type in each container. Each specific isotope contained in each waste type reported in each container is identified along with the associated activity information.
 - 5) The "P" (Pointer) record contains cross reference information about each original container which has been consolidated into the current container. This record is used by a broker or processor to identify which original containers are currently packaged in a consolidated container. The use of the "P" record prevents the unnecessary report of information already contained in the TSO data base.
- b) The record types described above are further subdivided based on the specific reporting requirements for the various shipment

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scenarios. These specific record types include:

- 1) **"M01"** - This record type indicates that the record contains summary information about an original LLRW shipment. This record type will always be followed by one or more container ("C01" or "C05") records.
- 2) **"M02"** - This record type indicates that the record contains summary information about a consolidated LLRW shipment. This record type will always be used when all information on the containers being consolidated has already been reported to and verified by the TSO, and will always be followed by one or more container ("C02") records.
- 3) **"M03"** - This record type indicates that the record contains summary information about a consolidated LLRW shipment originating out of the State of Illinois. This record type will always be accompanied by at least one original shipment ("M01") record, and followed by one or more container ("C02") records.
- 4) **"C01"** - This record type indicates that the record contains information about a specific container in an original LLRW shipment. This record type is used in conjunction with the "M01" record type, and will always be followed by one or more isotope ("I01") records. There will be one "C01" record for each container in the shipment.
- 5) **"C02"** - This record type indicates that the record contains information about a specific container in a consolidated LLRW shipment. This record type is used in conjunction with the "M02" record types, and will always be followed by one or more consolidated container ("P01") records. There will be one "C02" record for each container in the shipment.
- 6) **"C04"** - This record type indicates that the record contains information about a container which has been depleted (stored for decay to background, incinerated with no residue attributed to the generator or shipper, or ownership transferred from the generator to the receiving entity). It is not used in conjunction with any other record. There will be one "C04" record for each depleted container reported.
- 7) **"C05"** - This record type indicates that the record contains information about a specific container in an original LLRW shipment. This record type is used in conjunction with the "M01" record type, and will always be followed by one or more waste type ("W01") records. There will be one "C05" record for each container in the shipment.
- 8) **"P01"** - This record type indicates that the record contains information about a container which has been consolidated. This record type is used in conjunction with the "C02" record type. There is one "P01" record for each previous container consolidated in the current container.

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- 9) **"W01"** - This record type indicates that the record contains information about a specific waste type within an original container. This record type is used in conjunction with the "C05" record type, and will always be followed by one or more isotope ("I05") records. There is one "W01" record for each waste type in the container.
 - 10) **"I01"** - This record type indicates that the record contains information about a specific isotope within an original container. This record type is used in conjunction with the "C01" record type. There will be one "I01" record for each isotope present in the container.
 - 11) **"I05"** - This record type indicates that the record contains information about a specific isotope within a waste type within an original container. This record type is used in conjunction with the "W01" record type. There will be one "I05" record for each isotope in each waste type present in the container.
 - c) A detailed listing of the data elements that comprise these various record types is shown on Table A-1. Table A-2 provides the data element definitions as well as the field size, type and format, and usage codes.
- B) SHIPMENT SCENARIOS AND EDT FILE FORMAT REQUIREMENTS**
- a) For purpose of defining the EDT file format requirements, the various transaction scenarios can be combined into the following groupings:
 - 1) Original Shipment (both in-state and out-of-state).
 - 2) Consolidated or Continuing Shipment of Illinois generated LLRW or a Consolidated or Continuing Shipment by an Illinois shipper of out-of-state generated LLRW.
 - 3) Consolidated or Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a Facility located in Illinois.
 - 4) Report of depleted containers.
 - b) Original Shipments are prepared and sent by the generator of the LLRW. Consolidated or Continuing Shipments are those shipments sent from a broker, collector, processor or storor of LLRW.
 - c) The following defines the record type requirements for the shipment scenarios listed above. For some of the EDT file formats there is a preferred method and an alternative method. Both methods can be processed by the Tracking System. The alternative method is a remnant of the system development process and will be accepted by the TSO until December 31, 1996.
 - 1) Original Shipment (both in-region and out-of-region):
 - A) Preferred Method: Each EDT file for an original shipment of LLRW sent into, out from, or within the State of Illinois will contain a "M01" record. There

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will be a "C05" record for each container of LLRW present in the shipment, followed by a "W01" record for each waste type present in the container, followed by an "I05" record for each isotope present in each waste type.

B) Alternate Method: This method can be used only for containers with a single waste type. Each EDT file for an original shipment of LLRW sent into, out from, or within the State of Illinois will contain a "W01" record. There will be a "C01" record for each container of LLRW present in the shipment followed by an "I01" record for each isotope present in the container.

2) Consolidated or Continuing Shipment of Illinois generated LLRW or Consolidated or Continuing Shipment by an Illinois shipper of out-of-state generated LLRW:

Each EDT file for a Consolidated or Continuing Shipment of Illinois generated Waste will contain a "W02" record. There will be a "C02" record for each container of consolidated or continuing LLRW present in the shipment, followed by a "P01" record for each previous container present in the consolidated or continuing container.

3) Consolidated or Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a Facility located in Illinois:

A) Since the Tracking System will have no record of the out-of-state generated LLRW received by an out-of-state Facility, the out-of-state Facility needs to report those records for the LLRW it ships into Illinois. This is accomplished by providing information comparable to that provided for an original shipment as part of the EDT file for the shipment into Illinois.

B) For each incoming shipment of LLRW to the out-of-state Facility of out-of-state generated LLRW represented on the shipment to an Illinois Facility, there will be a "W01" record followed by a "C05" record for each original container of LLRW present in the shipment, followed by a "W01" record for each waste type present in the container, followed by an "I05" record for each isotope present in each waste type. For the consolidated or continuing shipment by an out-of-state shipper of out-of-state generated LLRW to an Illinois Facility there will be a "W03" record followed by a "C02" record for each container of consolidated or continuing LLRW present in the shipment, followed by a "P01" record for each previous container present in the consolidated or continuing container.

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4) Report of Depleted Containers:
Illinois Facilities that deplete LLRW or out-of-state Facilities that deplete Illinois generated LLRW need to report those depleted containers to the TSO in order for that waste to be removed from the tracking system. For purposes of the tracking system, LLRW is depleted when it has been stored for decay, incinerated with no residue attributed back to the original generator, or otherwise had the ownership of the waste transferred (as in the melting of contaminated metal into usable shielding blocks). The Facilities report the depleted containers to the TSO using an EDT file composed of one "C04" record for each container depleted.

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Section 609.TABIE A-1 Detailed listing of data elements

Record Type "M01"	Record Type "M02"	Record Type "M03"
Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)
Transaction Reference Number (TRANS_REF)	Transaction Reference Number (TRANS_REF)	Transaction Reference Number (TRANS_REF)
Manifest Number (MANIF_NUM)*	Manifest Number (MANIF_NUM)	Manifest Number (MANIF_NUM)
Consignor's Permit (CNSGNOR_ID)*	Consignor's Permit (CNSGNOR_ID)*	Consignor's Permit (CNSGNOR_ID)*
Consignee's Permit (CNSGNEE_ID)*	Consignee's Permit (CNSGNEE_ID)*	Consignee's Permit (CNSGNEE_ID)*
Total Container Count (TOT_CNTRS)	Total Container Count (TOT_CNTRS)	Total Container Count (TOT_CNTRS)
Total Activity (TOT_ACTVY)	Total Activity (TOT_ACTVY)	Total Activity (TOT_ACTVY)
Activity unit of measure (ACTVY_MEAS)	Activity unit of measure (ACTVY_MEAS)	Activity unit of measure (ACTVY_MEAS)
Total volume (TOT_VOLUME)	Total volume (TOT_VOLUME)	Total volume (TOT_VOLUME)
Total weight (TOT_WEIGHT)	Total weight (TOT_WEIGHT)	Total weight (TOT_WEIGHT)
Actual ship date (ACT_SHIP)	Actual ship date (ACT_SHIP)	Actual ship date (ACT_SHIP)
Received ship date (RCV_SHIP)*	Received ship date (RCV_SHIP)*	Received ship date (RCV_SHIP)*
EPA manifest number (EPA_MANIF)	EPA manifest number (EPA_MANIF)	EPA manifest number (EPA_MANIF)
Total source material weight (TOT_SRC_WT)	Total source material weight (TOT_SRC_WT)	Total source material weight (TOT_SRC_WT)
Total special nuclear material weight (TOT_SNM_WT)	Total special nuclear material weight (TOT_SNM_WT)	Total special nuclear material weight (TOT_SNM_WT)
Total H-3 activity (H3_ACT)	Total H-3 activity (H3_ACT)	Total H-3 activity (H3_ACT)
Total TC-99 activity (TC99_ACT)	Total TC-99 activity (TC99_ACT)	Total TC-99 activity (TC99_ACT)
Total I-129 activity (I129_ACT)	Total I-129 activity (I129_ACT)	Total I-129 activity (I129_ACT)
Total C-14 activity (C14_ACT)	Total C-14 activity (C14_ACT)	Total C-14 activity (C14_ACT)
Highway route description (HWY_ROUTE)	Highway route description (HWY_ROUTE)	Highway route description (HWY_ROUTE)
Exclusive use indicator (EXCLUS_USE)	Exclusive use indicator (EXCLUS_USE)	Exclusive use indicator (EXCLUS_USE)

*Non-requisite information

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Record Type "C01"	Record Type "C02"	Record Type "C04"	Record Type "C05"
Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)
Transaction Reference Number (TRANS_REF)	Transaction Reference Number (TRANS_REF)	Holding facility permit (PERMIT_NUM)	Transaction Reference Number (TRANS_REF)
Manifest Number (MANIF_NUM)*	Manifest Number (MANIF_NUM)*	Transaction Reference Number (TRANS_REF)	Manifest Number (MANIF_NUM)*
Container Number (CNTR_NUM)	Container Number (CNTR_NUM)	Container Number (CNTR_NUM)	Container Number (CNTR_NUM)
Container volume (CNTR_VOL)	Container volume (CNTR_VOL)	Container volume (CNTR_VOL)	Container volume (CNTR_VOL)
Container type (CNTR_TYPE)	Container type (CNTR_TYPE)	Container type (CNTR_TYPE)	Container type (CNTR_TYPE)
Waste volume (WASTE_VOL)	Container activity (CNTR_ACTVY)	Container activity (CNTR_ACTVY)	Container activity (CNTR_ACTVY)
Container activity (CNTR_ACTVY)	Activity unit of measure (ACTVY_MEAS)	Activity unit of measure (ACTVY_MEAS)	Activity unit of measure (ACTVY_MEAS)
Activity units of measure (ACTVY_MEAS)	Container Alpha (CNTR_ALPHA)	Container Alpha (CNTR_ALPHA)	Container Alpha (CNTR_ALPHA)
Container Alpha (CNTR_ALPHA)	Alpha less than indicator (ALPHA_SIGN)	Alpha less than indicator (ALPHA_SIGN)	Alpha less than indicator (ALPHA_SIGN)
Alpha less than indicator (ALPHA_SIGN)	Container Beta (CNTR_BETA)	Container Beta (CNTR_BETA)	Container Beta (CNTR_BETA)
Container Beta (CNTR_BETA)	Beta less than indicator (BETA_SIGN)	Beta less than indicator (BETA_SIGN)	Beta less than indicator (BETA_SIGN)
Beta less than indicator (BETA_SIGN)	Container make (CNTR_MAKE)	Container make (CNTR_MAKE)	Container make (CNTR_MAKE)
Container make (CNTR_MAKE)	Container model (CNTR_MODEL)	Container model (CNTR_MODEL)	Container model (CNTR_MODEL)
Container model (CNTR_MODEL)	Container disposition (CNTR_DISP)	Container disposition (CNTR_DISP)	Container disposition (CNTR_DISP)
Container disposition (CNTR_DISP)	Over pack indicator (OP_FLAG)	Over pack indicator (OP_FLAG)	Over pack indicator (OP_FLAG)
Over pack indicator (OP_FLAG)	Surface radiation (SURF_RADIA)	Surface radiation (SURF_RADIA)	Surface radiation (SURF_RADIA)
Surface radiation (SURF_RADIA)	Surface radiation units (RAD_MEAS)	Surface radiation units (RAD_MEAS)	Surface radiation units (RAD_MEAS)
Surface radiation units (RAD_MEAS)	Rad less than indicator (RAD_SIGN)	Rad less than indicator (RAD_SIGN)	Rad less than indicator (RAD_SIGN)
Rad less than indicator (RAD_SIGN)	DOT Label* (DOT_LABEL)	DOT Label* (DOT_LABEL)	DOT Label* (DOT_LABEL)
DOT Label* (DOT_LABEL)	Container weight (CNTR_WGT)	Container weight (CNTR_WGT)	Container weight (CNTR_WGT)
Container weight (CNTR_WGT)	DOT UN ID number (DOT_UN_ID)	DOT UN ID number (DOT_UN_ID)	DOT UN ID number (DOT_UN_ID)

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TABLE A-1 (continued)

Record Type "C01"	Record Type "C02"	Record Type "C04"	Record Type "C05"
Waste Classification (WASTE_CLS)	Transport Index* (TRANS_INDEX)		Transport Index* (TRANS_INDEX)
Waste Type (WASTE_TYPE)	Cert. of Compliance (CERT_NUM)		Cert. of Compliance (CERT_NUM)
Waste Code (WASTE_CODE)			
LSA/SCO indicator (LSA_SCO)			
Chelating agent 1 (CHE_AGENT1)			
% of chelating agent 1 (CHE_PCT1)			
Chelating agent 2 (CHE_AGENT2)			
% of chelating agent 2 (CHE_PCT2)			
Physical form (PHYS_FORM)			
SSS media (SSS_MEDIA)			
SSS vendor (SSS_VENDOR)			
SSS brand (SSS_BRAND)			
DOT UN ID number (DOT_UN_ID)			
Transport Index* (TRANS_INDEX)			
Cert. of compliance (CERT_NUM)			

*Non-requisite information

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TABLE A-1 (continued)

Record Type "I01"	Record Type "I05"
Record Type (REC_TYPE)	Record Type (REC_TYPE)
Transaction Reference Number (TRANS_REF)	Transaction Reference Number (TRANS_REF)
Manifest Number (MANIF_NUM)*	Manifest Number (MANIF_NUM)*
Container Number (CNTR_NUM)	Container Number (CNTR_NUM)
Radionuclide (RADIONUCL)	Waste Type (WASTE_TYPE)
Radionuclide activity (NUCL_ACTVY)	Radionuclide (RADIONUCL)
Activity units of measure (ACTVY_MEAS)	Radionuclide activity (NUCL_ACTVY)
Activity less than indicator (ACTVY_SIGN)	Activity units of measure (ACTVY_MEAS)
Radionuclide percentage (RADIO_PCT)	Activity less than indicator (ACTVY_SIGN)
% less than indicator (PCT_SIGN)	Radionuclide percentage (RADIO_PCT)
Special nuclear material grams (SNM_GRAMS)	% less than indicator (PCT_SIGN)
Chemical form (CHEM_FORM)	Special nuclear material grams (SNM_GRAMS)
	Chemical form (CHEM_FORM)

*Non-requisite information

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TABLE A-1 (continued)

Record Type "W01"

Record Type
(REC_TYPE)

Transaction Reference Number
(TRANS_REF)

Manifest Number
(MANIF_NUM)*

Container Number
(CNTR_NUM)

Waste Type
(WASTE_TYPE)

Waste activity
(WST_ACTVY)

Activity units of measure
(ACTVY_MEAS)

Waste classification
(WASTE_CLAS)

Waste volume
(WASTE_VOL)

Waste code
(WASTE_CODE)

Physical form
(PHYS_FORM)

SSS media
(SSS_MEDIA)

SSS vendor
(SSS_VENDOR)

SSS brand
(SSS_BRAND)

Chelating agent 1
(CHE_AGENT1)

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% of chelating agent 1
(CHE_PCT1)

Chelating agent 2
(CHE_AGENT2)

% of chelating agent 2
(CHE_PCT2)

LSA/SCO indicator
(LSA_SCO)

*Non-requisite information

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TABLE A-1 (continued)

Record Type "POL"

Record Type
(REC_TYPE)

Transaction Reference Number
(TRANS_REF)

Manifest Number
(MANIF_NUM) *

Container Number
(CNTR_NUM)

Previous Transaction Reference
Number
(PREV_TRN)

Previous manifest number
(PREV_MANF)

Previous container number
(PREV_CNTR)

Consolidated volume
(COMB_VOL)

% of previous container
(PREV_PCT)

*Non-requisite information

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Section 609.TABLE A-2 Data element definitions

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
ACT_SHIP	The actual shipment date of a LLRW shipment.	8	0	Numeric (Date)	YYMMDD	N/A	N/A
ACTVY_MEAS	The units used to measure activity (Curies or Millicuries.	1	0	Alpha- Numeric	X	C M	Curies Millicuries
ACTVY_SIGN	Indicates whether the activity number is a less than value.	1	0	Alpha- Numeric	X	< (blank)	Activity value is less than number shown. Activity value is the number shown.
ALPHA_SIGN	Indicates whether the Container Alpha (CNTR_ALPHA) number is a less than value.	1	0	Alpha- Numeric	X	< (blank)	Alpha amount is less than number shown. Alpha amount is the number shown.
BETA_SIGN	Indicates whether the Container Beta (CNTR_BETA) number is a less than value.	1	0	Alpha- Numeric	X	< (blank)	Beta amount less than number shown. Beta amount is the number shown.
C14_ACT	The total activity of C-14 within a LLRW shipment. Unit of measure is the manifest record's ACTVY_MEAS value.	12	6	Numeric	99999 999999	N/A	N/A
CERT_NUM	An NRC or host state certificate of compliance number. Refers to a specific container type, i.e. High Integrity Container.	16	0	Alpha- Numeric	X(16)	N/A	N/A
CHE_AGENT1	The primary chelating agent used in a LLRW waste type.	16	0	Alpha- Numeric	X(16)	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
CHE_AGENT2	The secondary chelating agent used in a LLRW waste type.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CHE_PCT1	The percentage of the primary chelating agent by weight of waste.	4	2	Numeric	9.99	N/A	N/A
CHE_PCT2	The percentage of the secondary chelating agent by weight of waste.	4	2	Numeric	9.99	N/A	N/A
CHEM_FORM	A description of the chemical form of a specific radionuclide within a container.	25	0	Alpha-Numeric	X(25)	N/A	N/A
CNSGNR_ID	The Tracking System Permit number assigned to the receiving facility of a LLRW shipment.	6	0	Alpha-Numeric	XX9999		Positions 1-2: State abbreviation Positions 3-6: Sequential number for permits in that state.
CNSGNOR_ID	The Tracking System Permit number assigned to the sending facility of a LLRW shipment.	6	0	Alpha-Numeric	XX9999		Positions 1-2: State abbreviation Positions 3-6: Sequential number for permits in that state.
CNTR_ACTVY	The total activity of all waste within a LLRW container. Units of measure are indicated by the record's ACTVY_MEAS value.	12	6	Numeric	99999.99999	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
CNTR_ALPHA	The surface contamination of a LLRW container in alpha disintegrations per minute: (dpm)/100 cm ² .	5	0	Numeric	99999	N/A	N/A
CNTR_BETA	The surface contamination of a container in beta disintegrations per minute: (dpm)/100 cm ² .	5	0	Numeric	99999	N/A	N/A
CNTR_DISP	A code to indicate the current disposition of a container.	1	0	Alpha-Numeric	X	1 2 3 4	Active (in-process) Stored for decay Buried Remove from inventory (decayed)
CNTR_MAKE	The specific make of a LLRW container type.	10	0	Alpha-Numeric	X(10)	N/A	N/A
CNTR_MODEL	The specific model of a LLRW container type.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CNTR_NUM	The unique identification number assigned to each LLRW container within a shipment.	16	0	Alpha-Numeric	X(16)	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
CNTR_TYPE	A code identifying the container type of a LLRW container.	3	0	Alpha-Numeric	XXX	BUW	Bulk unpackaged waste
						CTL	Concrete tank or liner
						DMZ	Demineralizer
						FTL	Fiberglass tank
						GCY	Gas cylinder
						HIC	High integrity container
						MBC	Metal box or crate
						MDP	Metal drum or pail
						MTL	Metal tank or liner
						OTH	Other
						PDP	Plastic drum or pail
						PTL	Polyethylene tank
						SLC	Sealand container
						UNP	Unpacked components
						WBC	Wooden box or crate
CNTR_VOL	The total volume (outside dimension) of a LLRW container, in cubic feet.	7	2	Numeric	9999.99	N/A	N/A
CNTR_WGT	The total weight of a LLRW container, including the contents, in pounds.	5	0	Numeric	99999	N/A	N/A
COMB_VOL	The post-consolidation volume of a container.	7	2	Numeric	9999.99	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
DOT_LABEL	The US DOT label which applies to a LLRW container.	1	0	Numeric	9	0 1 2 3 4 5 6	Empty White-I Yellow-II Yellow-III Oxidizer Spontaneously combustible Corrosive
DOT_UN_ID	The identification number for the proper shipping name of a LLRW container	6	0	Alpha-Numeric	XXXXXX	UN2908 UN2910 UN2911 UN2912 UN2913 UN2918 UN2974 UN2982	Radioactive material, empty packages, n.o.s. Radioactive material, limited quantity, n.o.s. Radioactive material, instruments Radioactive material, low specific activity or LSA, n.o.s. Radioactive material, surface contaminated object Radioactive material, fissile, n.o.s. Radioactive material, special form, n.o.s. Radioactive material, n.o.s.
EPA_MANIF	The EPA manifest number assigned to a LLRW shipment which has EPA regulated waste.	12	0	Alpha-Numeric	X(12)	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
MANIF_NUM	The unique number assigned to a LLRW shipment by the sending or receiving facility.	10	0	Alpha-Numeric	X(10)	N/A	N/A
NUCL_ACTVY	The activity level for a specific radionuclide within a given LLRW container. Unit of measure indicated by the record's ACTVY_MEAS value.	12	6	Numeric	99999.999999	N/A	N/A
OP_FLAG	A logical flag indicating whether a LLRW container requires disposal in a approved structural overpack.	1	0	Alpha-Numeric	X	T F Y N	True False Yes No
PCT_SIGN	Indicates whether the radionuclide percentage (RADIO_PCT) number is a less than value.	1	0	Alpha-Numeric	X	< (blank)	Percent amount is less than the number given. Percent amount is the number given.
PERMIT_NUM	The Tracking System permit number assigned to the holding facility of a LLRW container.	6	0	Alpha-Numeric	XX9999	N/A	Positions 1-2: State abbreviation Positions 3-6: Sequential number for permits in that state.
PHYS_FORM	A code indicating the physical form of LLRW within the container	1	0	Alpha-Numeric	X	G L S	Gas Liquid Solid

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
EXCLUS_USE	A flag indicating whether a LLRW shipment is an exclusive use shipment, i.e., a shipment which cannot be opened after shipment, except by the consignee.	1	0	Alpha-Numeric	X	T F Y N	True False Yes No
H3_ACT	The total activity of H-3 within a LLRW shipment. Unit of measure is indicated by record's ACTVY_MEAS value.	12	6	Numeric	99999.999999	N/A	N/A
HGWY_ROUTE	The specific and detailed highway route of a US DOT controlled shipment of LLRW.	No limit	0	Memo	X(n)	N/A	N/A
I129_ACT	The total activity of I-129 within a LLRW shipment. Unit of measure is indicated by record's ACTVY_MEAS value.	12	6	Numeric	99999.999999	N/A	N/A
LSA_SCO	The group notation for a shipment of Low Specific Activity material or Surface Contaminated Objects.	4	0	Alpha-Numeric	XXXX	LSA1 LSA2 LSA3 SCO1 SCO2	Low Specific Activity - I Low Specific Activity - II Low Specific Activity - III Surface Contaminated Objects - I Surface Contaminated Objects - II

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
PREV_TRN	The Tracking System transaction reference number assigned to the shipment in which the previous container (PREV_CNTR) was received.	10	0	Alpha-Numeric	XXXX999999		Positions 1-2: Sending facility state abbreviation. Position 3: Sending facility type.
PREV_CNTR	The previous unique identification number of a container which was been consolidated	16	0	Alpha-Numeric	X(16)	N/A	Position 4: Sending facility class. Positions 5-10: Sequential number for the sending state's transactions. N/A
PREV_MANF	The manifest number assigned to the shipment in which the previous container (PREV_CNTR) was received.	10	0	Alpha-Numeric	X(10)	N/A	N/A
PREV_PCT	The percentage of the consolidated container (PREV_CNTR) that has been consolidated into the current container.	3	0	Numeric	999	N/A	N/A
RAD_MEAS	A code indicating the units used to measure the radiation level of a LLRW container (SURF_RADIA).	1	0	Alpha-Numeric	X	M R	Millirems per hour (mR/hr) Rems per hour (R/hr)

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
RAD_SIGN	Indicates whether the radiation level of a LLRW container (SURF_RADIA) is less than the value given.	1	0	Alpha-Numeric	X	< (blank)	Radiation level less than number given Radiation level is the number given
RADIO_PCT	The percentage of a radionuclide within a LLRW container with respect to all radionuclides within the container.	6	3	Numeric	99.999	N/A	N/A
RADIONUCL	The abbreviated atomic name of a radionuclide with in a LLRW container	7	0	Alpha-Numeric	XXXXXXXX	N/A	Any valid radionuclide atomic symbol with atomic weight (C12 scale), e.g. C14, TC99, or CA40.

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
REC_TYPE	The EDT record type of the current record.	3	0	Alpha-Numeric	X99	M01	Original manifest record
						M02	Consolidated manifest record
						M03	Out of state consolidated manifest record
						C01	Original container record (alternative format)
						C02	Consolidated container record
						C04	Container removed from inventory record
						C05	Original container record (preferred format)
						W01	Waste Type record
						I01	Radionuclide record (alternative format)
						I05	Radionuclide record (preferred format)
						P01	Consolidated container pointer record
RCV_SHIP	The date on which a LLRW shipment was received by the receiving facility.	8	0	Numeric (date)	YYYYMMDD	N/A	N/A
SNM_GRAMS	The weight of a specific radionuclide of special nuclear material (U-233, U-235) in grams.	10	7	Numeric	99.9999999	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
SSS_BRAND	The brand name of a particular stabilization, sorbent, or solidification media (SSS_MEDIA) within a LLRW waste type.	15	0	Alpha-Numeric	X(15)	N/A	N/A
SSS_MEDIA	A code identifying the particular stabilization, sorbent, or solidification media (SSS_MEDIA) within a LLRW waste type.	3	0	Numeric	999	60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 89 90 91 92 93 94 99 100	Speedi Dri Celatom Floor Dry/ Supertine Hi Dri Safe T Sorb Safe N Dri Flocco Flocco X Solid A Sorb Chemasil 30 Chemasil 50 Dicaperl 3030 Dicaperl HP200 Dicaperl HP500 Petroset Petroset II Aqualet Aqualet II Other Sorbent Cement Concrete (Encapsulation) Bitumen Vinyl Chloride Vinyl Ester Styrene Other solidification None Required
SSS_VENDOR	The vendor of a particular stabilization, sorbent, or solidification media (SSS_MEDIA) within a LLRW waste type.	15	0	Alpha-Numeric	X(15)	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
SURF_RADIA	The radiation level measure on contact with a LLRW container. Units of measure indicated by the record's RAD_MEAS value.	8	2	Numeric	99999.99	N/A	N/A
TC99_ACT	The total activity of TC-99 within a LLRW shipment. Units of measure indicated by the record's ACTVY_MEAS value.	12	6	Numeric	99999.999999	N/A	N/A
TOT_ACTVY	The total activity of all containers in a LLRW shipment. Units of measure indicated by the record's ACTVY_MEAS value.	12	6	Numeric	99999.999999	N/A	N/A
TOT_CNTRS	The total number of containers in a LLRW shipment.	3	0	Numeric	999	N/A	N/A
TOT_SNM_WT	The total weight of all radionuclides of special nuclear material within a LLRW shipment, measured in grams.	10	7	Numeric	99.9999999	N/A	N/A
TOT_SRC_WT	The total weight of source material on a LLRW shipment, in pounds.	9	2	Numeric	999999.99	N/A	N/A
TOT_VOLUME	The total volume of all containers in a LLRW shipment, in cubic feet.	8	2	Numeric	99999.99	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
TOT_WEIGHT	The total weight of all containers in a LLRW shipment, in pounds.	6	0	Numeric	999999	N/A	N/A
TRANS_INDX	The transportation index for a package label on a LLRW container.	10	0	Alpha-Numeric	X(10)	N/A	N/A
TRANS_REF	A unique Tracking System assigned transaction reference number. Assigned at the time of notification of a LLRW shipment.	10	0	Alpha-Numeric	XXXXX999999		Positions 1-2: Sending facility state abbreviation. Position 3: Sending facility type. Position 4: Sending facility class. Positions 5-10: Sequential number for the sending state's transactions.
WASTE_CLAS	The waste classification of a LLRW waste type.	2	0	Alpha-Numeric	XX	AS AU B C >C	Class A stable Class A unstable Class B Class C Greater than Class C
WASTE_CODE	A code indicating whether the waste in a waste type has been collected or processed.	1	0	Alpha-Numeric	X	C P (blank)	Collected Processed Neither

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
WST_ACTIVITY	The total activity of all radionuclides within a waste type. Units are indicated by the record's ACTVT_MEAS value.	12	6	Numeric	99999.999999	N/A	N/A

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NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
WASTE_TYPE	A code indicating the specific type of waste type.	2	0	Alpha-Numeric	XX	20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38	Charcoal Incineration ash Soil Gas Oil Aqueous liquid Filler media Mechanical filler EPA Hazardous Demolition rubble Cation ion-exchange media Anion ion-exchange media Mixed bed ion-exchange media Contaminated equipment Organic liquid (except oil) Glassware or lab ware Sealed source/device Paint or plating Evaporator bottoms, sludges, concentrates Compactable trash Noncompactible trash Animal carcasses Biological material (except animal carcasses) Activated material Mixed waste Other
WASTE_VOL	The volume of the specific waste type (WASTE_TYPE) within a LLRW container, in cubic feet.	7	2	Numeric	9999.99	N/A	N/A

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- 1) Heading of the Part: Property Tax Code
- 2) Code Citation: 86 Ill. Adm. Code 110
- 3) Section Numbers: Adopted Action:
110.162 New Section
- 4) Statutory Authority: 35 ILCS 200
- 5) Effective Date of Rulemaking: October 3, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: October 3, 1996
- 9) Notice of Proposal Published in Illinois Register: May 30, 1996 20 Ill. Reg. 7509

- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
 1. In lines 30 and 31, corrected Authority Note.
 2. In line 50, added "May 21, 1996" in Source Note.
 3. In lines 54-56, capped heading for consistency.
 4. In line 61, changed to "subsection".
 5. In line 77, added "listed" after "association".
 6. In line 82, deleted "9", changed "Subsection" to "subsection".
 7. In line 87, added comma after "completed".
 8. In line 101, lower case "In".
 9. In line 121, lower case "Designation".
 10. In line 157, added "for".
 11. In line 215, changed "of" to "after".
 12. In lines 272, and 313, deleted comma after "and".

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13. In line 139, before the period, added "that is substantially similar to those organizations described in subsection (a)(2)(B)(i)-(iv) above in terms of required number of hours, course content, examination requirements, demonstration appraisal requirements and continuing education guidelines".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: P.A. 89-441, effective June 1, 1996, amends Section 2-45 of the Property Tax Code. With elections scheduled for 1977, township assessors, multi-township assessors, and new candidates for office will need to review their credentials in order to determine whether they need to obtain a CIAO, complete additional coursework, or meet current continuing education requirements.

This rulemaking implements the pre-election and pre-appointment qualification for township and multi-township assessors established by Public Act 89-441, effective June, 1, 1996. The rule also provides for an assessor education certification process and procedures for qualification revision by the Department.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Jerry Lanter
Senior Counsel - Property Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
(217) 782-6996

The full text of the Adopted Amendment begins on the next page:

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Reg. 14297, effective October 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 2624, effective February 4, 1992; emergency amendment at 17 Ill. Reg. 22584, effective January 1, 1994, for a maximum of 150 days; emergency expired May 30, 1994; amended at 18 Ill. Reg. 15618, effective October 11, 1994; emergency amendment at 19 Ill. Reg. 2476, effective February 17, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 3555, effective March 1, 1995, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 7540, effective May 21, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13993, effective OCT-0-8-1996.

Section 110.162 Township and Multi-township Assessor Qualifications

a) Pre-election and Pre-appointment Qualifications as Set Forth in Section 2-45 of the Property Tax Code [35 ILCS 200/2-45] As Amended by Public Act 89-141, Effective June 1, 1996
No person may file or have filed on his or her behalf nominating papers, or be a candidate in any caucus or primary or general election, for the office of township or multi-township assessor unless that person meets the appropriate qualifications specified in subsection (a)(1), (a)(2), or (a)(3) below and has filed a copy of the certificate of those qualifications with the township clerk, board of election commissioners or other appropriate election authority. No person may be appointed to fill a vacancy in the office of township or multi-township assessor unless that person meets the appropriate qualifications specified in subsections (a)(1) and (a)(2) and has filed a copy of the certificate of those qualifications with the appropriate appointing authority. Pursuant to Section 2-45(e) of the Property Tax Code [35 ILCS 200/2-45(e)], if any person files nominating papers for the office of township or multi-township assessor without filing a copy of the certificate of qualifications, the township clerk, board of election commissioners or other appropriate election authority shall not certify the name of that person as a candidate to the proper election officials. The certificate of qualifications shall be a document or documents from the Department or a designating association listed in subsection (a)(2)(A) or (a)(2)(B) that confirms the person has received the designation and is currently in compliance with continuing education requirements.

1) Beginning December 1, 1996, in a township or multi-township assessment district not subject to subsection (a)(2) or (a)(3) below, the person at a minimum shall have passed an introductory course in assessment practices approved by the Department or shall have one of the qualifications listed in subsection (a)(2)(A) or (a)(2)(B) below. Any such person who has successfully completed, prior to January 1, 1997, the Basic Course (currently designated "B-100") conducted by the Illinois Property Assessment Institute shall be considered to have passed an introductory course in assessment practices approved by the

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 110
PROPERTY TAX CODE

- Section 110.101 Railroads
- 110.105 Non-carrier Real Estate of Railroads
- 110.110 Procedures for Assessment of Pollution Control Facilities and Low Sulphur Dioxide Emission Coal Fueled Devices
- 110.115 Exemption Proceedings
- 110.120 Oil Right Lessees and Producers
- 110.125 Reports to be Filed with the Department
- 110.130 Hearings and Records of County Assessor, Supervisor of Assessments or Board of Assessors
- 110.135 Review of Assessments - Counties of 1,000,000 or More
- 110.140 Board of Review Procedures and Records - Counties of Less than 1,000,000
- 110.141 Farmland Factor Review Procedures (Repealed)
- 110.145 Practice and Procedure
- 110.150 Records Reproduction
- 110.155 Appointment of Board of Review Members After Examination
- 110.160 Multi-township Assessment Districts
- 110.162 Township and Multi-township Assessor Qualifications
- 110.165 Farmland Assessment Review Procedures
- 110.170 Assessors' Bonus
- 110.175 Equalization by Supervisor of Assessments
- 110.180 Supervisor of Assessments Examination
- 110.190 Property Tax Extension Limitation

AUTHORITY: Implementing the Property Tax Code [35 ILCS 200] and authorized by Sections 39b19 and 39b35 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b19 and 39b35].

SOURCE: Adopted June 1, 1940; amended at 5 Ill. Reg. 2999, effective March 11, 1981; amended at 5 Ill. Reg. 5888, effective May 26, 1981; amended at 6 Ill. Reg. 9707, effective July 27, 1982; amended at 6 Ill. Reg. 14564, effective November 5, 1982; codified at 7 Ill. Reg. 5886; amended at 8 Ill. Reg. 24285, effective December 5, 1984; amended at 9 Ill. Reg. 159, effective December 26, 1984; amended at 9 Ill. Reg. 12022, effective July 24, 1985; amended at 10 Ill. Reg. 11284, effective June 16, 1986; amended at 10 Ill. Reg. 15125, effective September 2, 1986; amended at 11 Ill. Reg. 19675, effective November 23, 1987; amended at 11 Ill. Reg. 20972, effective December 11, 1987; amended at 12 Ill. Reg. 14346, effective August 29, 1988; amended at 13 Ill. Reg. 6803, effective April 12, 1989; amended at 13 Ill. Reg. 7469, effective May 2, 1989; amended at 15 Ill. Reg. 3522, effective February 21, 1991; emergency rule added at 15 Ill.

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- 2) Department as required by this subsection (a)(1).
Beginning December 1, 1996, in a township or multi-township assessment district with \$25,000,000 or more of non-farm equalized assessed value or \$1,000,000 or more of commercial and industrial equalized assessed value, the person shall have at least one of the following qualifications:

A) A Certified Illinois Assessing Officer (CIAO) certificate from the Illinois Property Assessment Institute conferred:

- in the year of the election or appointment;
- in the year before the year of the election or appointment;

- prior to the year before the year of the election or appointment, plus current additional 30 class hours approved by the Department as required in Section 4-10 of the Property Tax Code [35 ILCS 200/4-10]; or

- prior to the year before the year of the election or appointment, plus a minimum of 300 additional hours of successfully completed courses approved by the Department (150 hours of which must have been courses with written examinations), plus successful completion of 15 class hours of additional training in courses approved by the Department within the four years preceding the election or appointment;

B) One of the following designations along with current continuing education requirements as prescribed by the designating association:

- designation by the International Association of Assessing Officers as a Residential Evaluation Specialist (RES) or Certified Assessment Evaluator (CAE);

- designation by the Appraisal Institute or its predecessor organizations as a Residential Member (RM), Member of the Appraisal Institute (MAI), Senior Real Estate Analyst (SREA), Senior Residential Analyst (SRA) or Senior Real Property Appraiser (SRPA);

- designation by the National Association of Independent Fee Appraisers as a Member (IFA), Senior Member (IFAS) or Appraiser-Counselor (IFAC);

- designation by the American Society of Appraisers as a Member (ASA); or

- a professional designation approved by the Department from any other appraisal or assessing association that is substantially similar to those organizations described in subsection (a)(2)(B)(i)-(iv) above in terms of required number of hours, course content, examination requirements, demonstration appraisal requirements and continuing education guidelines.

3) Beginning December 1, 2000, in a township or multi-township

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assessment district with more than \$10,000,000 and less than \$25,000,000 of non-farm equalized assessed value and less than \$1,000,000 in commercial and industrial equalized assessed value, a person who has previously been elected as assessor or multi-township assessor in such township or multi-township assessment district shall have one of the qualifications listed in subsection (a)(2)(A) or (a)(2)(B) above.

b) For purposes of this Section, these terms are defined as follows:

- "non-farm equalized assessed value" means the total equalized assessed value in the township or multi-township assessment district as reported to the Department under Section 18-255 of the Property Tax Code [35 ILCS 200/18-255] after removal of homestead exemptions and after removal of the equalized assessed value reported to the Department as farm or minerals under Section 18-255;

- "current" means for the year of the election or the year prior to the year of the election;

- "year" means calendar year.

c) Certification of Pre-election and Pre-appointment Requirements by the Department

- Between June 1 and June 15, 1996, and thereafter by February 1 of each year before the year of election of township or multi-township assessors, the Department shall certify to each township or multi-township clerk and each county clerk the pre-election requirements for the office of township or multi-township assessor in each township or multi-township assessment district.

- Within 30 days after the required statutory notice of either the formation of a new multi-township assessment district under Section 2-15 of the Property Tax Code [35 ILCS 200/2-15] or the disconnection of a township from a multi-township assessment district under Section 2-35 of the Property Tax Code [35 ILCS 200/2-35], the Department shall certify to the county clerk and the clerks of either the newly formed multi-township assessment district or of the disconnected township and the remaining multi-township assessment district the requirements for the office of township or multi-township assessor in each resulting township or multi-township assessment district.

d) Revision of Township and Multi-township Assessor Qualifications by the Department

- A township board of trustees in a township assessment district or multi-township board of trustees in a multi-township assessment district, upon approval by the board, may petition the Department in writing to revise the qualifications for the office of township or multi-township assessor within the board's jurisdiction pursuant to Section 2-52 of the Property Tax Code [35 ILCS 200/2-52, added by Public Act 89-441].

- When a certification is made by the Department in accordance with

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subsection (c)(1) above, the township or multi-township board of trustees requesting a revision of qualifications shall file the petition with the Department between the date the Department certifies the requirements and July 15, 1996, for 1997 elections and between the date the Department certifies the requirements and April 1 of the year before the year of an election for elections after 1997. The Department shall not consider a petition received after July 15, 1996, for 1997 elections, or after April 1 of the year before the year of an election for elections after 1997. The Department shall return any petition filed after these deadlines to the petitioning board. If a petition is received after a deadline or if a petition was not received by the Department, the burden of proof that the petition was timely filed with the Department shall be upon the petitioning board.

3) In requesting a revision of qualifications, when there is a voluntary formation of a multi-township assessment district under Section 2-15 of the Property Tax Code [35 ILCS 200/2-15] or a disconnection under Section 2-35 of the Property Tax Code [35 ILCS 200/2-35], the township or multi-township board of trustees of either the newly formed multi-township assessment district or of the disconnected township and the remaining multi-township assessment district shall file the petition within 30 days after the Department's certification in subsection (c)(2) above. The Department shall not consider a petition received more than 30 days after the certification under subsection (c)(2) above and shall return any petition filed after this deadline to the petitioning board. If a petition is received after a deadline or if a petition was not received by the Department, the burden of proof that the petition was timely filed with the Department shall be upon the petitioning board.

4) All supporting documentation and arguments shall be submitted with the petition, and the Department may request additional information from the petitioning board. The petition shall include each of the following:

- A) The name and county of the township or multi-township assessment district.
- B) The mailing address of the township or multi-township board of trustees.
- C) The name and mailing address of the township or multi-township clerk.
- D) The date the township or multi-township board of trustees approved the petition to request that the Department revise the qualifications for the office of township or multi-township assessor.
- E) The non-farm equalized assessed value in the township or multi-township assessment district that was used as the basis for certifying the pre-election and pre-appointment

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requirements for the office of township or multi-township assessor under Section 2-45 of the Property Tax Code [35 ILCS 200/2-45].

F) The commercial and industrial equalized assessed value in the township or multi-township assessment district that was used as the basis for certifying the pre-election and pre-appointment requirements for the office of township or multi-township assessor under Section 2-45 of the Property Tax Code [35 ILCS 200/2-45].

G) A statement that the township or multi-township board of trustees requests the qualifications for the office of township or multi-township assessor be revised from those required in subsection (a)(2) or (a)(3) above to those required in subsection (a)(1) above.

H) A detailed statement in support of the request for revision of assessor qualifications. The statement shall include information on the quantity and complexity of assessments within the township or multi-township assessment district. The statement may include, but is not limited to:

- i) evidence that values in the assessment district are different from the values used as the basis for certifying the pre-election and pre-appointment requirements for township or multi-township assessor;
- ii) descriptions of the number, characteristics, and valuations of classes, groups or individual properties in the assessment district;
- iii) descriptions of the activities of the assessor in the assessment process in the assessment district; and
- iv) any other information that the petitioning board considers relevant to a determination that the quantity and complexity of assessments within the assessment district support reducing the standards for qualification for the office of township or multi-township assessor.

I) If the petition states that the Chief County Assessment Officer will assess certain commercial or industrial property within the assessment district during the term of office for which the petition is made, the petition shall include a copy of a written agreement between the township or multi-township board of trustees, the Chief County Assessment Officer, and the County Board for the Chief County Assessment Officer to assess that property. The petition shall also indicate the most recent equalized assessed value of that property and of all other property in the township or multi-township assessment district by class of property. With respect to petitions for the 1997 election only, in lieu of a written agreement between the township or multi-township board of trustees, the Chief

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County Assessment Officer, and the County Board, the petition may include an affidavit from the Chief County Assessment Officer identifying the commercial and industrial property the Chief County Assessment Officer intends to assess during the term of office for which the petition is made.

5) In determining a petition for revision of assessor qualifications, the Department shall consider evidence concerning the quantity and complexity of assessments within the township or multi-township assessment district. The Department shall not determine a petition in favor of the petitioning board on the basis that all or a significant portion of the township or multi-township assessor's duties have been undertaken by the Chief County Assessment Officer or another entity. Evidence to be considered may include, but is not limited to:

A) Evidence that values for the assessment district are different from the values used by the Department as the basis for certifying the pre-election and pre-appointment requirements for the office of township or multi-township assessor; and

B) Evidence that an assessment district would have been in a category with reduced assessor qualifications if the equalized assessed values of three or fewer properties to be assessed by the Chief County Assessment Officer are deducted from the equalized assessed value upon which the qualifications are based.

6) The Department shall notify the township or multi-township board of trustees whether the revision in assessor qualifications is allowed within 30 days after receipt of the petition or receipt of any requested additional information, whichever is later. If the Department revises assessor qualifications, the Department also shall notify the township or multi-township clerk and the county clerk within the same 30-day period.

7) When the Department has allowed a request for a revision of assessor qualifications, the revision shall remain in effect until the next certification under Section 2-50 of the Property Tax Code [35 ILCS 200/2-50].

e) This Section shall be effective on and after June 1, 1996.

(Source: Added at 20 Ill. Reg. **13993**, effective **OCT 03 1996**)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

3) Section Numbers: Emergency Action:

160.30 Amendment

160.35 Amendment

160.60 Amendment

160.61 Amendment

160.62 New Section

4) Statutory Authority: Sections 10-17.7 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/10-17.7 and 12-13], Public Acts 89-6 and 89-641.

5) Effective Date of Amendments: October 15, 1996

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed in Agency's Principal Office: October 15, 1996

8) Reason for Emergency: This rulemaking is necessary to comply with provisions of Public Act 89-6, Public Act 89-641 and a federal waiver which require the Department of Public Aid to develop a process for the voluntary acknowledgment of paternity and a paternity establishment demonstration. Expediting paternity establishment will benefit clients, their children and taxpayers. This process should make paternity determinations easier and improve the Department's ability to collect child support payments. Section 10-17.7 of the Illinois Public Aid Code [305 ILCS 5/10-17.7], as amended by Public Act 89-6, specifically authorizes implementation of the administrative paternity determination process by emergency rulemaking.

9) Complete Description of the Subjects and Issues Involved: Pursuant to provisions of Public Act 89-6 and Public Act 89-641, these emergency amendments provide for the voluntary acknowledgment of paternity. Public Act 89-641 allows the Department to make changes in its Child Support Enforcement rules to increase the establishment of paternity and expedite child support collection efforts. The voluntary acknowledgment of paternity process will allow the mother and the father of a child to establish paternity without having to go to court. As a result of this rulemaking, the mother and the father only need to sign an acknowledgment of paternity to establish the paternity of a child.

The Department of Public Health requires an acknowledgment of paternity, signed by the mother and father, to add the father's name to the child's birth certificate. Public Act 89-641 adds a quick and easy method for the mother and father of a non-marital child to establish paternity and be

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listed on the child's birth certificate without the need to go to court.

Under the new law, when the father's name appears on the birth certificate of a non-marital child born on or after August 9, 1996, paternity is established. The new law also allows the birth certificate of a non-marital child born before August 9, 1996, to be amended to list the name of the father. When the birth certificate is amended to list the name of the father, paternity is established.

Paternity Establishment Demonstration

As part of the Paternity Establishment Demonstration Project of the Governor's Fast Track Welfare Reform, the Department requested a federal waiver to strengthen the requirements for cooperation in paternity establishment. The requirements are as follows:

- the Department is to give the client notice about the new cooperation requirements and penalties for failure to cooperate; and
- the client is required to identify and give information about the non-custodial parent.

In addition, these proposed amendments establish that a progressive sanction for non-cooperation, based on a 6-month time period beginning with the client's notification of cooperation requirements will be used. A custodial parent who fails to cooperate, without good cause, at any time during the first six months following the notification required by these amendments, will be excluded from the assistance grant.

Non-cooperation, without good cause, that continues beyond the six-month period after the required notification or an instance of non-cooperation that occurs after the six-month period following a period during which the custodial parent was deemed to be cooperating (such as, failure to appear for a court or administrative proceeding, or failure to submit to or bring the non-marital child in for court or administratively-ordered genetic testing) will result in sanctions by the Department as follows:

1. If the custodial parent was sanctioned for failure to furnish identifying information concerning the alleged father or for any other instance of non-cooperation, without good cause, at any time during the first six months following the required notification and non-cooperation continues beyond the end of the six-month period, then:
 - a. beginning with the seventh month following notification, in addition to continued exclusion of the custodial parent from the assistance grant, the non-marital child's portion of the family's

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cash assistance benefits will be terminated; and

- b. the sanction will be removed in the month following the date on which the custodial parent cooperates.

2. If an instance of non-cooperation, without good cause, occurs after the end of the first six months following the required notification and the custodial parent had not previously been sanctioned for non-cooperation, then:

- a. the custodial parent will be excluded from the assistance grant; and
- b. if the custodial parent then cooperates within the sanction month, the sanction will be removed for the following month; however
- c. if the non-cooperation continues through the sanction month, the non-marital child's portion of the family's cash assistance benefits will be terminated beginning the following month, and the sanction will not be removed until the month following the date on which the custodial parent cooperates.

3. If an instance of non-cooperation, without good cause, occurs after the end of the first six months of the requirement to cooperate, following a period during which the custodial parent was deemed to be cooperating, but the custodial parent had, at any earlier time following the required notification been sanctioned for non-cooperation; then:

- a. in addition to excluding the custodial parent from the assistance grant, the non-marital child's portion of the family's cash assistance benefits will be terminated; and
- b. the sanctions will not be removed until the month following the date on which paternity is established, unless it is determined by the Department that:
 - the custodial parent has provided the identifying information related to the child's alleged father, as specified in these amendments and fully cooperated; and
 - the failure to establish paternity is attributable to the Department for reasons such as trial or hearing continuances, or failure to arrange genetic testing or to make findings after a paternity administrative hearing, or to serve the alleged father with process or notice as provided by law.

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This rulemaking establishes that the Department will conduct a demonstration project for administrative paternity and support establishment and continued eligibility for custodial parents of a non-marital child for whom paternity has not been established. The Department will administratively establish paternity in uncontested matters in all IV-D cases. In cases involving recipients of cash assistance, the Department will administratively establish paternity in contested cases. When the Department administratively establishes paternity, it will also enter an administrative support order.

Unless the Department determines that there is good cause for refusing to cooperate, a custodial parent of a non-marital child in the Paternity Establishment and Continued Eligibility Demonstration Project must cooperate in the Department's efforts to establish the paternity of any non-marital child for whom paternity has not been established. These proposed amendments provide the guidelines for determining cooperation with the Paternity Establishment and Continued Eligibility Demonstration Project.

Cooperation

These proposed amendments provide that the client must give information to begin proceedings to establish the paternity of the child. A client who is the custodial parent and who does not have good cause, must identify and give information about the non-custodial parent. If more than one person may be a non-custodial parent, the client must give information about each person. The information must include at least the first and last name and the social security number of the non-custodial parent. If the SSN is not known, at least two of the following items of information about the non-custodial parent will be accepted:

- date of birth;
- address;
- telephone number;
- name and address of employer;
- name of parent; and
- the manufacturer's model and license number of any motor vehicle owned by the non-custodial parent.

The failure of a custodial parent to provide sufficient identifying information about the alleged father will not be determined to be non-cooperation if:

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1. The custodial parent has had an assistance grant that includes the non-marital child for at least 10 years prior to the notification provided to the custodial parent and the custodial parent furnishes to the Department a written statement, under penalty of perjury, indicating that she does not know the identifying information about the alleged father because she has had no contact with him since the non-marital child was included in the assistance grant; or
2. The custodial parent does not know the required information because:
 - the custodial parent is mentally retarded, as documented by a copy of an intelligence quotient test result, or the written statement of a qualified medical practitioner; or
 - the custodial parent is mentally ill, or was mentally ill at the time the non-marital child was conceived, as documented by the written statement of a qualified medical practitioner stating that the nature of the mental illness prevented the person from knowing the required information; or
 - the custodial parent has a history of drug or alcohol abuse, and provides documentation of treatment for such abuse at the time the non-marital child was conceived; and
3. The custodial parent provides whatever identifying information she does possess about the alleged father.

Fair Hearings

All persons subject to the demonstration sanction have the same appeal rights, including fair hearings and access to the judicial process, as any other person notified of adverse action.

- 10) Are there any Proposed Amendments pending to this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
160.10	Amendment	September 20, 1996 (20 Ill. Reg. 12567)
160.70	Amendment	May 24, 1996 (20 Ill. Reg. 7288)
160.71	New Section	September 20, 1996 (20 Ill. Reg. 12567)

- 11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

- 12) Information and questions regarding these Emergency Amendments shall be directed to:

Judy Umunna

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Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

The full text of the Emergency Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT ENFORCEMENT

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Proof of Good Cause For Failure to Cooperate With Support Enforcement

Suspension of Child Support Enforcement Upon Finding of Good Cause

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Section

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Section

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Withholding of Income to Secure Payment of Support

Past Due Support Information to State Licensing Agencies

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160.80 Amnesty - 20% Charge
160.85 Diligent Efforts to Serve Process

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section
160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section
160.100 Distribution Of Child Support For AFDC Recipients
160.110 Distribution Of Child Support For Former AFDC Recipients Who Continue To Receive Child Support Enforcement Services
160.120 Distribution Of Child Support Collected While The Client Was An AFDC Recipient, But Not Yet Distributed At The Time The AFDC Case Is Cancelled
160.130 Distribution Of Intercepted Income Tax Refunds and Other State Payments
160.132 Distribution Of Child Support for Non-AFDC Clients
160.134 Distribution Of Child Support for Interstate Cases
160.136 Distribution of Child Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution Of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section
160.140 Statement Of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section
160.150 Department Review Of Distribution Of Child Support For AFDC Recipients
160.160 Department Review Of Distribution Of Child Support For Former AFDC Recipients

AUTHORITY: Implementing and authorized by Art. X and Sections 4-1.7, 12-4.3 and 12-13 of the Illinois Public Aid Code [305 ILCS Art. X, 5/4-1.7, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg.

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18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. **14002**, effective October 15, 1996, for a maximum of 150 days.

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section 160.30 Cooperation With Support Enforcement Program
EMERGENCY

- a) As a condition of individual eligibility for AFDC, unless the Department determines there is good cause for refusing, a caretaker relative (see 89 Ill. Adm. Code 101.20 for definition of "caretaker relative") must cooperate with the Department in:
- 1) identifying and locating the responsible relative of a child for whom aid is claimed;
 - 2) establishing the paternity of a child for whom aid is claimed;
 - 3) obtaining support from the responsible relative; and
 - 4) enforcing support obligations.
- b) If the caretaker relative and his or her spouse are in the home and are included in the assistance grant, both must comply with the cooperation requirements. A caretaker relative who fails/refuses, without good cause (see Sections 160.35 through ~~thru~~ 160.45), to cooperate in the enforcement of support obligations shall be excluded from the assistance grant.
- c) "Cooperating with the Department" in the context of subsection (a) of this Section above means any of the following actions that are relevant to, or necessary for, the achievement of the objectives specified in subsection (a) of this Section above:
- 1) appearing at such places as an office of the Department or the Department's legal representative (such as the Attorney General or his designee), as necessary, to provide verbal or written

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information, or documentary evidence, known to, possessed by, or reasonably obtainable by the caretaker relative;

- 2) appearing and testifying as a witness at judicial or administrative proceedings;
- 3) paying to the Department any child support payments received from the responsible relative; and
- 4) providing information, or attesting to the lack of information, under penalty of perjury (for the penalty for perjury, see Section 32-2 of the Criminal Code [720 ILCS 5/32-2] ~~§ 32-2~~ ~~Rev. Stat. 1991 ch. 38, par. 32-2~~). All caretaker relatives must sign a statement attesting that:

A) he or she has to the best of his or her ability, provided all information requested of him or her, and

B) all information which he or she has provided is true and correct to the best of his or her knowledge.

- d) If a caretaker relative fails/refuses to comply with the requirements of subsection (c) of this Section above, he or she is ineligible for financial and medical assistance, that ~~error~~ is "sanctioned", for as long as the failure/refusal to cooperate continues. Grounds for a determination that a caretaker relative has failed/refused to cooperate with the requirements of subsection (c) of this Section above are as follows:

1) failure/refusal, without a valid reason, to appear for an appointment/interview at such places as the Department's or the Department's legal representative's office;

2) failure/refusal, without a valid reason, to appear and testify as a witness at a judicial or administrative proceeding;

3) failure/refusal, without a valid reason, to submit to a court or administratively-ordered genetic court-ordered-blood test; or

4) failure/refusal during an appointment/interview to attest under penalty of perjury that:

A) he or she has provided all verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by him or her about the identity and location of the responsible relative; and

B) the information provided is true and correct to the best of his or her knowledge.

- 5) A caretaker relative may claim a valid reason for failure/refusal to appear for an appointment/interview, to appear and testify as a witness at a judicial or administrative proceeding or to submit to a court or administratively-ordered genetic court-ordered blood test.

A) Examples of valid reasons for failure/refusal to cooperate include, but are not limited to:

- i) illness;
- ii) incapacity (for example error, a broken leg, information of a scheduled surgery or recuperation from surgery);

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- iii) death in the family;
- iv) non-child support Enforcement court-required appearance;
- v) temporary incarceration;
- vi) family crisis;
- vii) breakdown in child care arrangements;
- viii) sudden or unexpected emergency;
- ix) unavailability of otherwise suitable child care;
- x) breakdown in transportation arrangements or lack of reasonably available transportation; or
- xi) non-receipt of notice of appointment/interview, court date or genetic blood test date.

B) The Department will not require a caretaker relative to provide proof of a valid reason for failure/refusal to cooperate unless:

- i) the caretaker relative has failed/refused to appear for an appointment/interview, judicial or administrative proceeding or genetic blood test on at least one other occasion within a ~~thirty~~ 30 day period from the first failure to appear; or
- ii) evidence, independent of the explanation of valid reason, contradicts the caretaker relative's explanation.

C) When the Department requests proof of a valid reason, the caretaker relative must provide such proof (such as ~~error~~, physician's statement, dated pharmacy statement, hospital admission statement, statements by witnesses) within 10 calendar days after the request. The Department shall allow an additional 10 calendar days to provide proof at the request of the caretaker relative. If the caretaker relative does not provide the proof, his or her financial and medical assistance will be discontinued.

D) The sanction for failure/refusal to appear for an appointment/interview, judicial or administrative proceeding or genetic blood test shall be rescinded at any level of the appeal process up through and until the final agency decision and any lost benefits will be restored, if the caretaker relative establishes a valid reason for his or her failure/refusal.

- e) If a caretaker relative, who is ineligible for financial and medical assistance because of a failure/refusal to cooperate indicates that he or she is willing to cooperate, he or she will be given the opportunity to cooperate. The caretaker relative will be determined to have cooperated if he or she complies with the requirements that he or she previously failed/refused to meet as follows:

- 1) In the case of a caretaker relative who was sanctioned for missing an interview/appointment, he or she may demonstrate cooperation by appearing at a new interview/appointment. If the

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caretaker relative notifies the Department that he or ✓ she is willing to cooperate, the Department will schedule a new interview/appointment no later than ~~three~~-6 37 weeks from the date of such notification. If the caretaker relative appears at the new interview/appointment, the Department will authorize assistance as of the date the caretaker relative notified the Department that he or ✓ she was willing to cooperate.

2) In the case of a caretaker relative who was sanctioned for failure to submit to a genetic blood test to establish paternity, he or ✓ she may demonstrate cooperation by submitting to the genetic blood test. If the caretaker relative notifies the Department that he or ✓ she is willing to cooperate, the Department will schedule a genetic blood test within 3 weeks from the date of such notification. If the caretaker relative submits to the genetic blood test, the Department will authorize assistance as of the date the caretaker relative notified the Department that he or ✓ she was willing to cooperate.

3) In the case of a caretaker relative who was sanctioned for not attending a court or administrative appearance, he or ✓ she may demonstrate cooperation by attending the next court or administrative appearance or, once in a court or administrative case after 30 days have passed since the missed appearance, by signing a statement that he or ✓ she is now willing to cooperate and will attend the next scheduled court or administrative appearance. Assistance for the caretaker relative shall be authorized as of the date he or ✓ she demonstrates cooperation by either method.

4) In the case of a sanctioned caretaker relative whose failure to attend a court or administrative appearance or other failure to cooperate resulted in the dismissal of the court or administrative case, he or ✓ she may demonstrate cooperation by doing what he or ✓ she failed to do or, once in a court or administrative case after 60 days have passed since the dismissal, by signing a statement that he or ✓ she is now willing to cooperate. Assistance for the caretaker relative shall be authorized as of the date he or ✓ she demonstrates cooperation by either method.

5) In the case of a caretaker relative who was sanctioned for not attesting, he or ✓ she may demonstrate cooperation by executing the attestation described in subsection (d)(4) of this Section above. Assistance for the caretaker relative shall be authorized as of the date he or ✓ she executes the attestation.

6) The Department shall not deny or terminate a pregnant caretaker relative's medical assistance because of the caretaker relative's failure to cooperate with the requirements of subsection (c) of this Section above until at least 30 days have elapsed since termination of the pregnancy.

f) A sanction for failure/refusal to comply with the requirements of

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subsection (c) of this Section above shall be rescinded at any level of the appeal process up through and including the final agency decision and any lost benefits will be restored, if the caretaker relative establishes good cause for failure/refusal.

(Source: Emergency amendment at 20 Ill. Reg. **14002**, effective October 15, 1996, for a maximum of 150 days)

Section 160.35 Good Cause For Failure to Cooperate With Support Enforcement EMERGENCY

a) The Department shall inform the caretaker relative of the right to claim good cause for failing to cooperate.

b) In order to be exempted from the cooperation requirement as to a particular child, the caretaker relative who claims good cause must either:

1) A) provide the Department with evidence on which it may base a determination of good cause; or
 2) B) furnish information sufficient to permit the Department to investigate to determine that cooperation is against the best interests of the child (see Section 160.40).

c) Upon request, the Department shall assist the caretaker relative in obtaining acceptable evidence and shall not deny, delay or discontinue assistance pending a determination of good cause, if the caretaker relative has complied with the requirement to furnish evidence or information.

d) A caretaker relative has good cause and is exempt from the requirement of cooperation if:

1) The Department determines that cooperation reasonably may be expected to result in physical or emotional harm to the caretaker relative or the child for whom support is being sought; or
 2) The Department determines that because of the existence of one of the following circumstances proceedings to establish paternity or to obtain support would be detrimental to the child:

A) The child was conceived as a result of incest or forcible rape; or

B) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

C) The caretaker relative or parent in the home is currently being counseled by a public or licensed private social agency in order to decide whether to keep the child or to relinquish the child for adoption and the counseling has not lasted more than 3 months.

e) An applicant for, or recipient of, AFDC who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of good cause circumstance. Such applicant or recipient will be required to:

1) Specify the circumstances, as described in subsection (d) of this

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Section, ~~160-35(f)~~ that the applicant or recipient believes provide sufficient good cause for not cooperating.

2) Corroborate the good cause circumstances in accordance with Section 160.40.

3) If requested, provide sufficient information (such as the information listed in Section 160.40(b)(1) through (b)(6)). See Section 160.40(f) for when the Department will conduct an investigation.

~~f)~~ If the requirements of subsection (e) of this Section ~~160-35(d)~~ are not met, the Department shall determine that good cause does not exist. If the Department determines that good cause does not exist:

1) the applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application, or have the case closed; and

2) continued refusal to cooperate will result in imposition of the sanction provided by Section 160.30(b), or in a case assigned to the experimental treatment group or the non-experimental treatment group in the paternity establishment and continued eligibility program under subsection (c) of Section 160.61, the sanctions provided by Section 160.62.

~~g)~~ The Department's final determination that good cause does or does not exist shall be made within 45 days after of the date the exemption was claimed, shall be in writing, shall contain its findings and basis for the determination, and shall be filed in the AFDC case record. The Department will exceed this time standard only where the case record documents that the Department needs additional time because the information required to verify the claim cannot be obtained within the time standard or that the claimant did not provide corroborative evidence within the period required by Section 160.40. Such extension shall not exceed 45 days and shall be granted only under the conditions described in subsection ~~Section-160-35(f)~~ of this Section.

~~h)~~ The administrative unit responsible for the Department's support enforcement activities shall have an opportunity to review and comment on proposed determinations of good cause for refusing to cooperate and may participate in any administrative hearing proceeding resulting from actions taken pursuant to a final determination. In accordance with established procedures, the caretaker relative has the right to appeal any action taken by the Department as a result of its final determination.

~~i)~~ The Department shall review, during each redetermination of eligibility, all cases in which there has been a determination of good cause based on circumstances subject to change.

(Source: Emergency amendment at 20 Ill. Reg. **14002**, effective October 15, 1996, for a maximum of 150 days)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

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Section 160.60 Establishment of Support Obligations

EMERGENCY

a) Definitions

1) "FSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.

2) "Service" or "Served" means notice given by certified mail, return receipt requested, or by any method provided by law for service of summons. (See Sections 2-203 and 2-206 of the Civil Practice Law [735 ILCS 5/2-203 and 2-206].)

3) "Support Statutes" means the following:

A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X 10];

B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];

C) The Non-Support of Spouse and Children Act [750 ILCS 15];

D) The Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20];

E) The Uniform Interstate Family Support Act [750 ILCS 22-100 et-seq.];

F) The Illinois Parentage Act of 1984 [750 ILCS 45]; and

G) Any other statute in another state which provides for child support.

4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered, including for reimbursement of cash assistance furnished by the Department to the custodial parent and/or children prior to the determination of support.

b) Responsible Relative Contact

1) Timing and Purpose of Contact

A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.

B) The purpose of contact and interview shall be to obtain relevant facts including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such

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as a prior court number;

- C) that the responsible relative has a legal obligation to support the named persons;
- D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
- E) that the responsible relative should bring specified information regarding his income and resources to the interview.

3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

1) The Department shall use the guidelines set forth below to determine the financial ability of responsible relatives to provide support in Title IV-D cases.

2) The minimum amount of child support to be established shall be determined as follows:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

3) "Net Income" is the total of all income from all sources, minus the following deductions:

- A) Federal income tax (properly calculated withholding or estimated payments);
- B) State income tax (properly calculated withholding or estimated payments);
- C) Social Security (FICA payments);
- D) Mandatory retirement contributions required by law or as a condition of employment;
- E) Union dues;
- F) Dependent and individual health/hospitalization insurance premiums;
- G) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
- H) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
- I) Medical expenditures necessary to preserve life or health; and
- J) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

4) The deductions in subsections (c)(3)(H), (I) and (J) of this Section shall be allowed only for the period that such payments

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are due. The Department shall enter administrative, or request the court to enter, support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.

5) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

- A) the financial resources and needs of the child;
- B) the financial resources and needs of the custodial parent;
- C) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
- D) the physical and emotional condition of the child, and his educational needs; and
- E) the financial resources and needs of the non-custodial parent.

6) Each order requiring support which deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.

7) In cases where health/hospitalization insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost. However, in Title IV-D non-AFDC cases where the client is neither an applicant for nor a recipient of Medical Assistance, the Department shall enter or request such support orders only with the client's consent. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

8) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection and regardless of the amount of the responsible relative's net income, order the responsible relative to pay child support of at least \$10.00 per month.

9) In cases where cash assistance was provided to the custodial parent and/or children during the period prior to entry of a court or administrative support order, and the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's portion of the cash assistance grant provided, or the amount of the child's needs, whichever is greater.

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- 10) The final order in all cases shall state the support level in dollar amounts.
- 11) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section ~~below~~, shall order, or, when proceeding under subsection (e) of this Section ~~below~~, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives.
- 12) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:
- A) of any new address of the responsible relative;
 - B) of the name and address of any new employer or source of income of the responsible relative;
 - C) of any change in the responsible relative's Social Security Number;
 - D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
 - E) if so, the policy name and number and the names of persons covered under the policy.

- 13) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.

d) Administrative Process

- Use of Administrative Process
 - Department FSS's shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - presumed paternity as set forth in Section 5~~04~~~~17~~~~7~~ ~~(2)-and-(3)~~ of the Illinois Parentage Act of 1984 [750 ICS 45/5~~04~~~~17~~~~7~~-(2)-and-(3)] and support is sought from one or both parents;
 - alleged paternity and support is sought from the mother; ~~and~~
 - an administrative paternity order entered under

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Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both; and-

- an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6].

B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:

- that the responsible relative may be required to pay retroactive support as well as current support, and that he may be liable for reimbursement of public assistance furnished the named persons prior to determination of the ability to support; and
- that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.

- The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section. In cases where cash assistance was provided to the custodial parent and/or children during the period prior to entry of the administrative support order, and the net income of the responsible relative cannot be determined because of default or any other reason, the FSS shall order the responsible relative to pay retroactive support for the prior period in the amount of the cash assistance provided, as specified in subsection (c)(9) of this Section. In administrative process cases, the period prior to the entry of the administrative support order shall commence with the parties' separation, unless the child was born out of wedlock and paternity was determined under Section 160.61 or under Section 12 of the Vital Records Act [410 ILCS 535/12], in which case such period shall commence with the child's birth.

- Failure to Appear
 - In instances in which the responsible relative fails to

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appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child persons for whom support is sought, as furnished by affidavit of the IV-D client, or the child's portion of the cash assistance grant, whichever is greater. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.

B) The FSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:

i) financial ability, as determined from the guidelines contained in subsection (c) of this Section above, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; 7 or

ii) income exceeds that reported by the relative.

C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.

D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the FSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then seek establishment of support obligations through the judicial process pursuant to subsection (e) of this Section.

4) Registration of Order of Another State

A) The FSS shall register a support order entered by a court or administrative body of any other state referred for establishment and enforcement of an Illinois support obligation, on behalf of persons receiving Title IV-D services from such state, upon receipt of the following:

i) a request that another state's support order be administratively registered to effect interstate income withholding;

ii) the referring state's IV-D case name and identification number;

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iii) the names and birthdates of the persons for whom support is ordered;

iv) a certified copy of the support order with all modifications;

v) a certified copy of an order for withholding, if any, still in effect;

vi) a certified copy of the payment record or, if there is no payment record, an affidavit attesting to the amount of arrearage which has accrued under the support order;

vii) the name, address, and social security number of the responsible relative; and

viii) the name and address of the responsible relative's employer or any other source of income of the relative from which withholding may be effected, if known.

B) When registered such order shall become an administrative support order of the Department. The FSS shall enter a separate administrative support order of the Department which shall contain the terms of the registered order.

5) An administrative support order shall include the following:

A) the Title IV-D case name and identification number;

B) the names and birthdates of the persons for whom support is ordered;

C) the beginning date, amount and frequency of support;

D) the total retroactive support obligation and the beginning date, amount (which shall not be less than 20% of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;

E) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (which shall not be less than 20% of the support order) and frequency of payments to be made until the arrearage is paid in full;

F) the manner in which support payments are to be made; and

G) a statement informing the responsible relative that he has 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102.

6) Upon entry of any administrative support order, the FSS shall enter a separate administrative order for withholding, based upon and in the same manner as prescribed in Section 160.75. The order shall inform the responsible relative of the grounds for a petition and the time within which to petition the Department to stay service of or to modify, suspend or terminate the order for withholding, or to stay service of the notice of delinquency and receive a hearing in accordance with 89 Ill. Adm. Code 104.104.

7) The FSS shall provide to each responsible relative a copy of each administrative order for support and for withholding entered by:

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- A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the relative or an affidavit of delivery signed by the FSS shall be sufficient for purposes of notice.
- B) certified mail where the relative fails or refuses to accept delivery or the orders are entered by default.
- C) service in the case of registration of the support orders of another state. A copy of such state's orders shall be served with those of the Department.
- 8) The FSS shall provide to each Title IV-D client a copy of each administrative order for support and for withholding entered.

e) Judicial Process

- 1) Department FSS's shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), in those wherein the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(DE) of this Section.
- 2) The FSS shall prepare the transmit pleadings and obtain or affix appropriate signature thereto which pleadings shall include, but not be limited to, petitions to:

- A) intervene;
- B) modify;
- C) change payment path;
- D) establish an order for support;
- E) establish retroactive support;
- F) establish past-due support;
- G) obtain an order for withholding;
- H) establish parentage;
- I) obtain a rule to show cause; and
- J) combinations of the above.

(Source: Emergency amendment at 20 Ill. Reg. _____, effective October 15, 1996, for a maximum of 150 days)

14002

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

EMERGENCY

a) Definitions

- 1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another man from the same racial background.

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- 2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.
- 3) "Service" or "Served" means notice given by personal service, certified mail, return receipt requested, or by any method provided by law for service of a summons. (See Sections 2-203 and 2-206 of the Civil Practice Law [735 ILCS 5/2-203 and 2-206].)
- 4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.
- 5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.
- 6) "Presumed father" shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 [750 ILCS 45].
- b) Uncontested Administrative Paternity Process
- 1) Department FSS's shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
- A) a non-marital child and support is sought from the alleged father;
 - B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
 - C) presumed paternity as set forth in Section 5(a)(1) and (2) and (3) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2) and (3)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.

2) Contact with Responsible Relatives

- A) Following the IV-D client interview, the Department shall contact and interview:

- i) alleged fathers to establish paternity and support obligations; and
- ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.

- B) The purpose of contact and interview shall be to obtain relevant facts including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.

- 3) At least ten working days in advance of the interview, the

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Department shall provide a notice of alleged paternity and support obligation by ordinary mail, to the alleged father from whom child support is sought, which notice shall contain the following:

- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
 - E) that the alleged father should bring specified information regarding his income and resources to the interview;
 - F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and
 - G) that the alleged father may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child.
- 4) At least ten working days in advance of the interview, the Department shall provide a notice of alleged paternity and support obligation to the child's mother by ordinary mail, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child.

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- 5) At least ten working days in advance of the interview, the Department shall provide a notice of alleged paternity and support obligation to the child's mother by ordinary mail, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.

- 6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the FSS shall send a notice to the presumed father and (2)], the FSS shall send a notice to the presumed father which shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the child's name and birthdate;
 - C) the name of the child's mother;
 - D) that the man to whom the notice is directed has been identified as the child's presumed father;
 - E) that another man has been alleged to be the child's father, and the name of that alleged father;
 - F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);

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- G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and
- H) that counsel may accompany the presumed father to the interview.

7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.

8) In cases involving a non-marital child:

- A) The FSS shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody and visitation.

B) The FSS shall enter and serve an administrative paternity order finding the alleged father to be the father of the child where:

- 1) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1;
- 2) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;

3) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon him.

4) The FSS shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.

9) An acknowledgment of paternity or agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is

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iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;

iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1;

v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;

vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, and the alleged father and the child's mother have voluntarily signed an acknowledgment that the alleged father is the father of the child after being provided with information concerning the legal implications of signing such an acknowledgment; or

vii) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1;

or

viii) the alleged father fails to appear for an interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon him.

C) The FSS shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.

9) An acknowledgment of paternity or agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is

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a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the acknowledgment of paternity or agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.

- 10) A man against whom a default administrative paternity order has been entered, pursuant to subsection (b)(8)(B)(i), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, may have the order vacated if, within 30 days after being served with the order, he appears in person at the office to which he was notified to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The FSS shall then proceed with the establishment of paternity under this Section.
- A man may obtain relief under this subsection only once in any proceeding to establish paternity.

- c) Contested Paternity and Support Establishment and Continued Eligibility Demonstration Program

1) The Department shall conduct a demonstration program for administrative paternity and support establishment and continued eligibility for custodial parents of a non-marital child who are applicants for or recipients of cash assistance under Articles IV, V, and VI of the Illinois Public Aid Code.

- 2) The demonstration program shall be implemented statewide but phased in beginning with the following counties: Cass, Champaign, Christian, DeWitt, Fulton, Logan, Macon, Macoupin, Mason, McLean, Menard, Montgomery, Morgan, Moultrie, Peoria, Piatt, Sangamon, Shelby, Seizevelt, and Woodford. McLean County shall be designated a control county with custodial parents randomly selected for participation in the demonstration program. In those demonstration program cases in which the mother and alleged father and any presumed father voluntarily acknowledge paternity by affidavit in the form required by the Department or agree to be bound by the results of genetic testing or in which the alleged father has failed to respond to a notice of alleged paternity and support obligation, the Department shall administratively determine paternity and establish a support order in accordance with subsection (b) of this Section and Section 160-607 respectively.

- 2) The demonstration program shall be implemented statewide with applicants and recipients in McLean County randomly assigned to one of the 3 following groups:

- A) an experimental treatment group, which will be subject to the provisions of Section 160.62;
- B) a non-experimental treatment group, which will also be subject to the provisions of Section 160.62; and
- C) a control group, which will be subject to the provisions of Section 160.30.

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- 3) Applicants and recipients in all counties, other than McLean County, shall be assigned to the non-experimental treatment group and subject to the provisions of Section 160.62.

- 4) In demonstration program cases in which paternity is uncontested, the Department shall establish paternity in accordance with subsection (b) of this Section.

- 5) 4) Demonstration program cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity and establish child support. The Department shall provide the alleged father fathers (and any presumed father fathers) with notice and opportunity to contest paternity at an administrative hearing, as well as inform the alleged father (and any presumed father) of his right to demand a judicial trial by jury. The notice and any hearing shall be governed by Sections 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.

- 6) 5) Notice shall be served on all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.

- 7) 6) The Department shall enter default paternity determinations in demonstration program cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(6) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsection (d) of this Section, except that where notice was served by publication the notice of default paternity determination shall not include the mother's and father's Social Security numbers, and shall include a statement of the following in lieu of a statement that the order is a final and binding administrative decision:

- A) that the man determined to be the child's father may bring a petition in the circuit court for relief from the

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administrative paternity determination on the same grounds provided for relief from judicial judgments under Section 2-1401 of the Code of Civil Procedure [735 ILCS 5/2-1401];

B) that such a petition must be filed no later than two years after the notice of default paternity determination was published; and

C) that allegations made in such a petition without reasonable cause that are found to be untrue by the circuit court may subject the petitioner or his attorney, or both, to the payment of reasonable costs and attorney's fees incurred by the Department in defending against the petition.

8) In those cases in which the alleged father or presumed father has requested a trial by jury, the Department shall refer the case for judicial action to establish paternity and support in accordance with subsection (g) of this Section.

9) The Department shall not proceed to establish paternity administratively under the demonstration program in those cases wherein the court has acquired jurisdiction previously, the alleged or presumed father has requested a trial by jury, or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.

10) In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original demonstration program county, the paternity determination case shall remain in the original demonstration county unless a transfer to the county in which the non-custodial parent and the non-marital child reside is requested by the custodial parent, in writing, within ten days after the move outside the original demonstration county.

d) An administrative paternity order, whether entered under subsection (b) or subsection (c) of this Section, shall include the following:

- 1) the Title IV-D case name and identification number;
- 2) the name and birthdate of the child for whom paternity is determined;
- 3) the alleged father's name and his Social Security number, if known;
- 4) the mother's name and her Social Security number, if known;
- 5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, acknowledgment agreement to be bound by the results of genetic testing, default, contested hearing);
- 6) except in cases in which paternity is administratively determined under subsection (b)(8)(ii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the responsible relative that he has 30 days from the date of mailing (or delivery at the

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interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105; and

7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, a statement informing the responsible relative of the relief available pursuant to subsection (b)(10) of this Section; and

8) in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

e) When the paternity of a child has been administratively established determined under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60 except in the demonstration program under subsection (c) of this Section when paternity is established by default (including default after publication of the notice of alleged paternity and support obligation); the Department shall order the responsible relative to pay child support of at least an amount equal to the child's or children's portion of the cash assistance grant; the responsible relative shall have the same appeal rights for review or modification of the support obligation amount as those set forth in Section 160.60.

f) The Department shall notify the Department of Public Health of final administrative paternity determinations and voluntary acknowledgements of paternity.

g) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

- 1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section;
- 2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;
- 3) where the court has acquired jurisdiction previously;
- 4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 500 to 1, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section; or
- 5) where the alleged or presumed father has requested a trial by jury in a contested case under subsection (c) of this Section,

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but only after genetic tests have been ordered and the results have been received in accordance with Section 104.213.

(Source: Emergency amendment at 20 Ill. Reg. **14002**, effective October 15, 1996, for a maximum of 150 days)

Section 160.62 Cooperation with Paternity Establishment and Continued Eligibility Demonstration Program
EMERGENCY

a) Unless the Department determines there is good cause for failure to cooperate (see Sections 160.35 through 160.45), a custodial parent of a non-marital child in a case assigned to either the experimental or the non-experimental treatment group in the Paternity Establishment and Continued Eligibility Demonstration Program under subsection (c) of Section 160.61 must cooperate with the Department's efforts to establish the child's paternity, as required under this Section. If the alleged father is in the home with the custodial parent and included in the assistance unit, both parents must comply with the cooperation requirements.

b) The provisions of Section 160.30, on cooperation with the support enforcement program, shall apply to the cases described in subsection (a) of this Section, unless otherwise provided in this Section.

c) A custodial parent in a case described in subsection (a) of this Section cannot attest to lack of information under subsection (c) of Section 160.30, but must furnish to the Department at the time of the notification required under subsection (d) of this Section a written statement, under penalty of perjury, setting forth the following information about the alleged father, or, if more than one person is an alleged father, about each such person:

- 1) the name and social security number of the alleged father; or
- 2) the name of the alleged father and at least two of the following items of identifying information related to the alleged father:

- A) date of birth;
- B) address;
- C) telephone number;
- D) name and address of past or present employer;
- E) name and address of union or trade association;
- F) past or present school attended;
- G) names and address of parents;
- H) names and addresses of other relatives or friends;
- I) the manufacturer's model and license number of any motor vehicle owned by the alleged father.

d) All custodial parents in the cases described in subsection (a) of this Section shall be notified, in writing, of the cooperation requirements and sanctions for failure to comply with those requirements under this Section during intake, when adding a non-marital child to their grant (including cases where the new child is subject to the family cap

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under 89 Ill. Adm. Code 112 and 170), or, for existing cases with a non-marital child, at any time beginning with the effective date of this Section.

e) A custodial parent who fails to cooperate, without good cause, at any time during the first 6 months following the notification required under subsection (d) of this Section, shall be excluded from the assistance grant.

f) Non-cooperation, without good cause, that continues beyond the six-month period after the notification required under subsection (d) of this Section, or an instance of non-cooperation that occurs after the six-month period following a period during which the custodial parent was deemed to be cooperating (such as failure to appear for a court or administrative proceeding, or failure to submit to or bring the non-marital child in for court or administratively-ordered genetic testing), will result in sanctions by the Department as follows:

1) If the custodial parent was sanctioned for failure to furnish identifying information concerning the alleged father or for any other instance of non-cooperation, without good cause, at any time during the first 6 months following the notification required under subsection (d) of this Section, and non-cooperation continues beyond the end of the six-month period, then:

A) beginning with the seventh month following notification, in addition to continued exclusion of the custodial parent from the assistance grant, the non-marital child's portion of the family's cash assistance benefits will be terminated; and

B) the sanction will be removed in the month following the date on which the custodial parent cooperates.

2) If an instance of non-cooperation, without good cause, occurs after the end of the first 6 months following the notification required under subsection (d) of this Section, and the custodial parent had not previously been sanctioned for non-cooperation, then:

A) the custodial parent will be excluded from the assistance grant; and

B) if the custodial parent then cooperates within the sanction month, the sanction will be removed for the following month; however

C) if the non-cooperation continues through the sanction month, the non-marital child's portion of the family's cash assistance benefits will be terminated beginning the following month, and the sanction will not be removed until the month following the date on which the custodial parent cooperates.

3) If an instance of non-cooperation, without good cause, occurs after the end of the first 6 months of the requirement to cooperate, following a period during which the custodial parent was deemed to be cooperating, but the custodial parent had, at

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any earlier time following the notification required under subsection (d) of this Section, been sanctioned for non-cooperation, then:

A) in addition to excluding the custodial parent from the assistance grant, the non-marital child's portion of the family's cash assistance benefits will be terminated; and

B) the sanctions will not be removed until the month following the date on which paternity is established, unless it is determined by the Department that:

i) the custodial parent has provided the identifying information related to the child's alleged father, as specified in subsection (c) of this Section, and fully cooperated; and

ii) the failure to establish paternity is attributable to the Department for reasons such as trial or hearing continuances, or failure to arrange genetic testing or to make findings after a paternity administrative hearing, or to serve the alleged father with process or notice as provided by law.

9) The failure of a custodial parent to provide sufficient identifying information about the alleged father, as required under subsection (c) of this Section, shall not be determined to be non-cooperation if:

1) the custodial parent has had an assistance grant that includes the non-marital child for at least 10 years prior to the notification provided to the custodial parent under subsection (d) of this Section, and the custodial parent furnishes to the Department a written statement, under penalty of perjury, indicating that she does not know the identifying information about the alleged father because she has had no contact with him since the non-marital child was included in the assistance grant; or

2) the custodial parent does not know the required information because:

A) the custodial parent is developmentally disabled, as documented by a copy of an intelligence quotient test result, or the written statement of a qualified medical practitioner; or

B) the custodial parent is mentally ill, or was mentally ill at the time the non-marital child was conceived, as documented by the written statement of a qualified medical practitioner stating that the nature of the mental illness prevented the person from knowing the required information; or

C) the custodial parent has a history of drug or alcohol abuse, and provides documentation of treatment for such abuse taken at the time the non-marital child was conceived; and

3) the custodial parent provides whatever identifying information she does possess about the alleged father.

h) All applicants and recipients subject to the provisions of this

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section shall have the same appeal rights, including the right to a fair hearing, as any other applicant or recipient notified of an adverse action.

14002

(Source: Emergency amendment added at 20 Ill. Reg. effective October 15, 1996, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 8, 1996 through October 14, 1996 and have been scheduled for review by the Committee at its November 19, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
11/24/96	Department of Agriculture, Livestock Auction Markets (8 Ill Adm Code 40)	7/12/96 20 Ill Reg 8790	11/19/96
11/24/96	Department of Agriculture, Animal Diagnostic Laboratory Act (8 Ill Adm Code 110)	7/12/96 20 Ill Reg 8746	11/19/96
11/24/96	Department of Agriculture, Bovine Brucellosis (8 Ill Adm Code 75)	7/12/96 20 Ill Reg 8752	11/19/96
11/24/96	Department of Agriculture, Livestock Dealer Licensing (68 Ill Adm Code 610)	7/12/96 20 Ill Reg 8795	11/19/96

PROCLAMATIONS

96-488

ADULT IMMUNIZATION AWARENESS WEEK

Whereas, influenza and pneumococcal pneumonia are responsible for tens of thousands of deaths among American adults, especially older Americans, and together are the sixth leading cause of death; and

Whereas, too few adults are immunized against these diseases, as well as against other highly infectious diseases, including hepatitis B, measles, mumps and rubella; and

Whereas, fewer than half of Americans over age 50 are protected against tetanus and diphtheria; and

Whereas, the lives of many American adults could be saved this year simply by taking vaccines that are approved safe and effective and are readily available to the public; and

Whereas, the U.S. Public Health Service has repeatedly called on this nation to reduce the massive costs of health care through a program of preventive health care in immunization against infectious diseases;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 20-26, 1996, as ADULT IMMUNIZATION AWARENESS WEEK in Illinois and urge businesses, government agencies, community based organizations, and service groups to spread the adult immunization message throughout their communities. I urge all citizens to obtain needed immunizations and to maintain records of their personal immunization status.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-489

CHRISTOPHER COLUMBUS PARADE DAY

Whereas, Christopher Columbus and other distinguished Italians have played a significant role in the growth of American civilization; and

Whereas, the Italian American community has preserved their rich heritage, language and traditions; and

Whereas, the Italian American community has contributed greatly to Illinois in all areas including education, business, science, medicine, the arts, sports, entertainment and government; and

Whereas, the Joint Civic Committee of Italian-Americans will celebrate October 14, 1996, with the 44th Annual Christopher Columbus Day Parade; and

Whereas, "A Tribute to Christopher Columbus and Early Italian Explorers" is the 1996 Christopher Columbus Day Parade theme;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 14, 1996, as CHRISTOPHER COLUMBUS PARADE DAY in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-490

CUSTOMER SERVICE WEEK

Whereas, successful businesses are distinguished by their ability to provide excellent customer service and to understand the influence a customer

has on a company's prosperity; and

Whereas, the International Customer Service Association (ICSA), founded in 1991 in response to a need for proactive customer service management, is the only non-profit organization of its kind in the world; and

Whereas, with more than 3,200 members internationally, as well as a chapter in Illinois, the ICSA is dedicated to developing and advancing customer service and assists industry professionals in meeting these challenges by offering educational programs, management development opportunities, and interactions among customer service management professionals; and

Whereas, today's high cost of attracting new customers further emphasizes the need to keep existing customers through effective service;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 7-11, 1996, as CUSTOMER SERVICE WEEK in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-491

DOMESTIC VIOLENCE AWARENESS MONTH

Whereas, domestic violence is a devastating problem affecting persons of all economic, racial, and social backgrounds with both immediate and long-lasting effects on victims and their children and on society as a whole; and

Whereas, the Illinois Department of Public Aid provides \$13.5 million to 53 domestic violence programs delivering services such as shelter, information and referral, advocacy, crisis hotline, counseling, and transportation to more than 54,000 victims of domestic violence and their children in the state each year; and

Whereas, the Department of Public Aid, numerous local agencies, advocates, and providers, all of whom participate in the Domestic Violence Advisory Council, are committed to promoting and recognizing safe, effective, and accountable abuser treatment programs as an important step in the prevention of domestic violence; and

Whereas, the state is dedicated to improving community responses to domestic violence through efforts of the Illinois Department of Public Aid, the Illinois Department of Public Health, the Illinois Criminal Justice Information Authority, and local coordinating councils, which bring law enforcement, criminal justice, health care systems, and other service providers together to find ways to better respond to domestic violence; and

Whereas, the state continues these education and prevention efforts in hopes of eliminating domestic violence;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1996 as DOMESTIC VIOLENCE AWARENESS MONTH in Illinois, and urge citizens to take part in working toward the elimination of domestic violence so that people can be safe and without fear in their homes and personal lives.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-492

ECONOMIC EDUCATION AWARENESS DAY

Whereas, EconomicsAmerica/The Illinois Council on Economic Education is the premier provider in the State of Illinois of economic education programs for citizens of all ages; and

Whereas, these programs help prepare individuals to be informed consumers, productive workers and knowledgeable voters in our local and global economy; and

Whereas, EconomicsAmerica, a nonprofit, non-partisan organization, accomplishes its goals primarily through working with teachers and administrators to integrate economics into the school curriculum K-12 and increase students' economic understanding and meet state academic standards; and

Whereas, EconomicsAmerica/Illinois, located at Northern Illinois University in DeKalb, works through a network of Centers for Economic Education located at universities throughout Illinois; and

Whereas, the Council and its centers deliver four statewide programs to Illinois classrooms: the EconomicsAmerica School Program, the Stock Market Game, Illinois Awards for Excellence in the Teaching of Economics, and the Economics Poster Contest; and

Whereas, the council represents a strong partnership between education, business, labor and government that offers a cost-efficient, effective educational process with proven and lasting impact;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 8, 1996, as ECONOMIC EDUCATION AWARENESS DAY in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-493

ILLINOIS ACADEMY OF PHYSICIAN ASSISTANTS DAY

Whereas, the Illinois Academy of Physician Assistants has been an innovative part of the ever changing health care team for 20 years; and

Whereas, the members it represents include highly skilled and motivated professionals dedicated to serving the citizens of this great state; and

Whereas, the membership of the Illinois Academy of Physician Assistants reflects a composite of licensed health care professionals, as well as student societies, all focused on enhancing the quality of medical care to the people of Illinois; and

Whereas, the Illinois Academy of Physician Assistants enjoys the support of the physician, hospital and nursing communities in the promotion of their medical services;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 6, 1996, as ILLINOIS ACADEMY OF PHYSICIAN ASSISTANTS DAY in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-494

MACMURRAY COLLEGE DAY

Whereas, MacMurray College has long been noted as a superior academic institution; and

Whereas, MacMurray College began as a women's school that provided an education at both the preparatory and collegiate levels and evolved into a

coeducational, fully accredited four-year liberal arts college; and

Whereas, MacMurray College is dedicated to giving its students a well-rounded education that is not merely a vocational education, but rather it is a blending of liberal arts and communications skills, the central ideas of civilization and solid career preparation; and

Whereas, MacMurray College will celebrate its sesquicentennial on October 10, 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 10, 1996, as MACMURRAY COLLEGE DAY in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-495

NATURAL HAZARDS AWARENESS DAY

Whereas, the United Nations has declared the decade of the 1990's as the International Decade for Natural Disaster Reduction; and

Whereas, Congress has declared the second Wednesday in October as Natural Disaster Awareness Day; and

Whereas, natural disasters cannot be prevented, however, their effects can be reduced through well-organized public education and awareness, risk assessment and mitigation; and

Whereas, Illinois is at risk for the devastating effects caused to human lives and private property by natural disasters such as earthquakes, floods, tornadoes and winter storms; and

Whereas, this year's Awareness Day will focus on severe storms and tornadoes causing wind damage to Illinois residences and businesses; and

Whereas, Illinois will detail methods of home construction and repairs that will result in stronger and safer structures in the event of these severe storms and/or tornadoes; and

Whereas, Illinois communities should take steps now to mitigate the effects of these hazards; and

Whereas, the Illinois Emergency Management Agency, along with other state agencies, local emergency management organizations, chapters of the American Red Cross, and professionals from the insurance and building industries throughout Illinois will unite efforts of the governments and the communities to promote awareness and preparedness by encouraging them to take steps now to address their basic needs before and immediately following natural disasters;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 9, 1996, as NATURAL HAZARDS AWARENESS DAY in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-496

OIC VOCATIONAL INSTITUTE DAY

Whereas, OIC Vocational Institute is an organization fully accredited by the North Central Association of Colleges and Schools; and

Whereas, OIC Vocational Institute is an affiliate of OIC/America which was founded in 1964 with the purpose of providing educational upgrading and job skills training; and

Whereas, OIC Vocational Institute is committed to training and developing

men and women with untapped talents to meet current employment needs of business and industry; and

Whereas, OIC Vocational Institute is committed to promoting and encouraging a sense of self-worth and community awareness within each student, as well as providing the opportunity and ability to gain insight and awareness within each student; and

Whereas, OIC Vocational Institute will present its 28th annual Ebony and Ivory Awards Dinner and Dance on October 11, 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 11, 1996, as OIC VOCATIONAL INSTITUTE DAY in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-497

CREDIT UNION WEEK

Whereas, credit unions are individual, independent cooperatives founded by people seeking economic advancement, and are passports to opportunity for people seeking a way to improve the condition of their lives and those of their families; and

Whereas, credit unions create opportunity in 86 nations around the world, so that 36,196 credit unions can serve the financial needs of 85 million members, associated through local, state, regional and international organizations sharing the same commitment to serving credit unions' members; and

Whereas, Illinois continues to be a leader in the credit union movement, with more than 1,800,000 Illinois citizens as members of the 520 state chartered credit unions; and

Whereas, the 71st anniversary of the enactment of the Credit Union Law in Illinois will be celebrated throughout the state;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 14-18, 1996, as CREDIT UNION WEEK in Illinois.

Issued by the Governor September 26, 1996.

Filed by the Secretary of State October 4, 1996.

96-498

FIRE PREVENTION WEEK

Whereas, 3,640 people died in home fires in the United States in 1995; and Whereas, having a smoke detector significantly decreases the risk of dying in a home fire; and

Whereas, about one-third of the homes equipped with smoke detectors in the U.S. have detectors that are non-operational, most often due to dead or missing batteries; and

Whereas, testing home smoke detectors is simple and should be done at least once a month to ensure effectiveness; and

Whereas, minimum requirements for every home include at least one smoke detector on each level and one outside each sleeping area; and

Whereas, the efforts of many Illinois fire services support the theme: "Let's Hear it for Fire Safety! Test Your Detectors!" of this year's Fire Prevention Week; and

Whereas, the activities of the Illinois State Fire Marshall and the fire

service organizations in Illinois are enhanced by the activities of organizations such as the American Red Cross, the Congressional Fire Services Institute, the Federal Emergency Management Agency and its United States Fire Administration, the Fire Marshals Association of North America, the International Association of Black Professional Fire Fighters, the International Association of Fire Chiefs, the International Association of Fire Protection Association, and the National Volunteer Fire Council;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 6-12, 1996, as FIRE PREVENTION WEEK, and urge all citizens to heed the 1996 theme: "Let's Hear It for Fire Safety! Test Your Detectors!"

Issued by the Governor September 27, 1996.
Filed by the Secretary of State October 4, 1996.

96-499

JOANN THAR DAY

Whereas, Joann Thar has been active in the Republican Party in many capacities; and

Whereas, Joann Thar served two terms as President of the Wheaton Women's Republican Club between 1989 and 1992; and

Whereas, Joann also has been active in the DuPage Federation, where she has participated in board meetings and supported many different Federation activities; and

Whereas, Joann Thar is currently the Americanism Chairman for the DuPage Federation, as well as Chairman of the Ways and Means Committee for the Wheaton Women's Republican Club; and

Whereas, Joann Thar has been selected as DuPage County Federation of Republican Women's "1996 Woman of the Year;"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 6, 1996, as JOANN THAR DAY in Illinois.

Issued by the Governor September 27, 1996.
Filed by the Secretary of State October 4, 1996.

96-500

METRIC WEEK

Whereas, the Metric Conversion Act of 1975 established a national policy of coordinating and planning increased voluntary usage of the entire metric system in the United States; and

Whereas, the United States Metric Association is a nonprofit organization dedicated to helping the American people, industry, and government adopt the international metric system as their primary means of measurement; and

Whereas, the United States has taken many important steps toward metrication, including requiring metric labeling on all consumer packaging; and

Whereas, the Goals 2000 bill has passed Congress and been signed into law, which stipulates for the first time that SI metric should be taught in all science and math classes in the United States;

Whereas, metric construction in excess of \$9 billion is now taking place in the United States;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 6-12, 1996, as METRIC WEEK in Illinois and urge citizens to use the

metric system whenever possible.

Issued by the Governor September 27, 1996.
Filed by the Secretary of State October 4, 1996.

96-501

OFF THE STREET CLUB DAY

Whereas, Off The Street Club provides an alternative to street gangs and violence for young people in Chicago's West Garfield Park; and

Whereas, Off The Street Club offers educational, recreational, and athletic activities and a safe haven for young people; and

Whereas, Off The Street Club is dedicated to making a difference in the lives of young people; and

Whereas, the 96th Annual Off The Street Club Holiday Luncheon will be Tuesday, December 10, 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 10, 1996, as OFF THE STREET CLUB DAY in Illinois.

Issued by the Governor September 27, 1996.
Filed by the Secretary of State October 4, 1996.

96-502

SMASH OUT SUICIDE DAY

Whereas, the people of Illinois benefit from suicide prevention programs; and

Whereas, these suicide prevention programs educate individuals to be sensitive to the whole person which contributes to good mental health; and

Whereas, these programs provide preventative and crisis services to those in need;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 20, 1997, as SMASH OUT SUICIDE DAY in Illinois.

Issued by the Governor September 27, 1996.
Filed by the Secretary of State October 4, 1996.

96-503

CHAKA KHAN DAY

Whereas, Chaka Khan is an acclaimed singer who is known throughout the world; and

Whereas, Chaka Khan, a Chicago native, has won numerous awards as a result of her vocal talents; and

Whereas, Chaka Khan was recently awarded Capital Radio's Listeners Poll award as "London's Best Actress;" and

Whereas, Chaka Khan will perform her first concert in Chicago in more than 10 years to help benefit the Community of St. Sabina; and

Whereas, this year marks Chaka Khan's 25th anniversary in the entertainment industry;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 19, 1996, as CHAKA KHAN DAY in Illinois.

Issued by the Governor September 30, 1996.
Filed by the Secretary of State October 4, 1996.

96-504

CHICAGO 16 INCH SOFTBALL HALL OF FAME DAY

Whereas, the game of softball originated at Chicago's Farrangut Boat Club in the year 1887; and

Whereas, softball in Chicago evolved from a 12 inch ball to a 16 inch ball in the 1920s; and

Whereas, 16 inch softball is unique to the City of Chicago; and

Whereas, the Chicago 16 Inch Softball Hall of Fame will open in 1997 at the Hawthorne Park Race Track in Cicero; and

Whereas, 40 Chicago legends will be recognized at an inaugural inductee dinner ceremony to be held at the future site of the Hall; and

Whereas, those to be honored include players, teams, umpires, media and organizers who have molded the sport of softball,

Therefore, I, Jim Edgar, Governor of the State of Illinois, declare November 1, 1996, as CHICAGO 16 INCH SOFTBALL HALL OF FAME DAY in Illinois, and offer congratulations to all who have been involved in making softball such an important part of Chicago's culture.

Issued by the Governor September 30, 1996.

Filed by the Secretary of State October 4, 1996.

96-505

GERMAN-AMERICAN DAY

Whereas, on October 6, 1683, the first Germans arrived in the United States; and

Whereas, the sons and daughters of Germany have contributed to the State of Illinois in all areas including science, business, medicine, education, government and the arts; and

Whereas, German-Americans continue to add substantially to the growth and welfare of Illinois and to the United States; and

Whereas, German-American Day celebrates the accomplishments and traditions of German-Americans;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 6, 1996, as GERMAN-AMERICAN DAY in Illinois.

Issued by the Governor September 30, 1996.

Filed by the Secretary of State October 4, 1996.

96-506

HEALTH CARE FOOD SERVICE WEEK

Whereas, quality food service is an integral part of the complete realm of services rendered to health care patients; and

Whereas, quality food service depends upon all members of the food service health care team: cooks, chefs, secretarial and clerical staff, managers, dietitians, diet technicians and diet aides, warewashers, cafeteria staff, administrators and food service volunteers; and

Whereas, food service workers daily fulfill this year's theme, "Exceeding Expectations with Excellence," through their diligence and dedication;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 6-12, 1996, as HEALTH CARE FOOD SERVICE WEEK in Illinois.

Issued by the Governor September 30, 1996.

Filed by the Secretary of State October 4, 1996.

96-507

NATIVE AMERICAN AWARENESS MONTH

Whereas, 10,000 years ago, the first inhabitants of Illinois hunted, fished, and gathered food to support their families in areas such as Canokia and Dickson Mounds; and

Whereas, these early residents considered Illinois' rich soils, abundant water, productive hardwoods, and tall prairie grasses a good place to call home; and

Whereas, at first, the early European settlers were not considerate of cultures other than their own, but through the kindness and hospitality of the Native Americans, the settlers began to understand the value of cultural diversity; and

Whereas, through this sharing, the Europeans gained knowledge in crops, hunting, medicine, and fishing; and

Whereas, Native Americans have an envious understanding of the environment and dedication to natural resources;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1996 as NATIVE AMERICAN AWARENESS MONTH and encourage all Illinoisans to recognize the contributions of Native Americans.

Issued by the Governor September 30, 1996.

Filed by the Secretary of State October 4, 1996.

96-508

SUDDEN INFANT DEATH SYNDROME AWARENESS MONTH

Whereas, Sudden Infant Death Syndrome (SIDS) is the leading cause of death in the United States among infants between the ages of one month and one year, occurring most often in infants 2-4 months old; and

Whereas, SIDS claims the lives of 5,000 to 6,000 infants in the United States annually; and

Whereas, SIDS cannot be predicted or prevented--it is sudden and silent; and

Whereas, SIDS occurs in all races and socioeconomic levels; and

Whereas, SIDS is not contagious, nor is it the result of neglect, illness or child abuse;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1996 as SUDDEN INFANT DEATH SYNDROME AWARENESS MONTH in Illinois.

Issued by the Governor September 30, 1996.

Filed by the Secretary of State October 4, 1996.

96-509

WILLIS AND WILLA BROWN CONGRATULATED

Whereas, Willis and Willa Brown met in Evanston, Illinois, more than 50 years ago; and

Whereas, Willis and Willa have lived in Chicago since 1946, and at the same residence for 40 years; and

Whereas, Willa is a retired high school librarian for the Chicago Public Schools; and

Whereas, Willis is a retired superintendent for the U.S. Post Office; and
 Whereas, Willis and Willa are the parents of two sons, Willis III, an attorney, and Gregory, a media and marketing executive; and
 Whereas, Willis and Willa are the grandparents of Paul, Gregory, and Willis IV, and the great-grandparents of Patrick, Paul, Page and Parnell; and
 Whereas, Willis and Willa Brown will celebrate their 50th wedding anniversary on October 5, 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, extend best wishes and sincere congratulations to Willis and Willa Brown on their golden anniversary.

Issued by the Governor September 30, 1996.

Filed by the Secretary of State October 4, 1996.

96-510

CHINESE DOUBLE TEN DAY

Whereas, the Republic of China on Taiwan and the State of Illinois share a strong tie of friendship through the Sister State Agreement; and
 Whereas, October 10, 1996, denotes the 85th anniversary of the founding of the Republic of China; and

Whereas, Chinese-American citizens have made significant contributions to the social and economic growth of Illinois; and
 Whereas, the State of Illinois recognizes the strong efforts of the Republic of China on Taiwan for inclusion into the United Nations;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 10, 1996, as CHINESE DOUBLE TEN DAY in Illinois and encourage all Illinoisans to join in this observance and to show appreciation for the contributions of the Chinese-American citizens of our state.

Issued by the Governor September 30, 1996.

Filed by the Secretary of State October 4, 1996.

96-511

DOWNSTATE ILLINOIS OCCUPATIONAL SAFETY AND HEALTH (DIOSH) DAY

Whereas, the U.S. Department of Labor, Occupational Safety and Health Association, along with several employers, public sector, and professional groups, is hosting a conference at the Peoria Civic Center on safety and health in the workplace; and

Whereas, this annual event addresses such topics as Development of Safety and Health Programs, Effective Safety and Health Committees, Cooperative Compliance Programs, and provides technical training on machine guarding, personal protective equipment, confined space entry, scaffolding safety, and laboratory safety; and

Whereas, this type of event helps assure workplace safety and prevent on-the-job accidents through educational seminars;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 26, 1997, as DOWNSTATE ILLINOIS OCCUPATIONAL SAFETY AND HEALTH (DIOSH) DAY in Illinois.

Issued by the Governor October 1, 1996.

Filed by the Secretary of State October 4, 1996.

96-512

HISPANIC STATE EMPLOYEE DAY

Whereas, Hispanics represent 904,000 or 7.9 percent of the Illinois population, and by the year 2010 will be the largest minority group in the United States; and

Whereas, according to the Bureau of the Census, Illinois ranks among the top five states with sizable Hispanic populations; and

Whereas, state government is committed to providing services to the Hispanic population in the areas of education, housing, health, business, employment, and training opportunities; and

Whereas, the Illinois Association of Hispanic State Employees is sponsoring the 9th Annual Conference on Hispanic State Employment at University of Illinois at Chicago on October 18. The theme of this year's conference is "presence in Policy: Connecting the Pieces to Illinois' Future;"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 18, 1996, as HISPANIC STATE EMPLOYEE DAY in Illinois in recognition of the contributions Hispanic employees have made to the vitality and growth of our state.

Issued by the Governor October 1, 1996.

Filed by the Secretary of State October 4, 1996.

96-513

JEWISH BIG SISTERS DAY

Whereas, Jewish Big Sisters (JBS) has provided friendship and support for more than 4,000 Jewish girls in Metropolitan Chicago; and

Whereas, JBS helps fulfill the emotional and interpersonal needs of girls from the ages of nine to 19 by providing social acceptance, understanding, guidance and group activities; and

Whereas, JBS sponsors group activities that are cultural, religious, educational, and recreational. These activities foster friendships and discussions, which in turn builds the girls' self-esteem; and

Whereas, Jewish Big Sisters is celebrating its 80th anniversary on October 20, 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 20, 1996, as JEWISH BIG SISTERS DAY in Illinois.

Issued by the Governor October 1, 1996.

Filed by the Secretary of State October 4, 1996.

96-514

ORA HIGGINS' YOUTH FOUNDATION DAY

Whereas, the Ora Higgins' Youth Foundation was founded in 1976 by Ora Higgins, who perceived the necessity for a community-based and a community supported foundation to administer an annual scholarship award program for academically gifted students pursuing postsecondary studies at institutions of higher learning; and

Whereas, the Foundation will commemorate the 20th anniversary of its annual scholarship award dinner on Sunday, October 27, at the Lexington House, with a \$1,000 scholarship award to each of 10 high school graduates enrolled at institutions of higher learning; and

Whereas, the Foundation will present 11 leadership awards to outstanding local citizens who have made major contributions within their respective professional fields toward the physical, social, moral, spiritual, and intellectual growth and development of today's urban youth; and

Whereas, the Foundation is presenting its Corporate Executive of the Year Award to Bill Ketchum, President of AM&T's Central States; and

Whereas, the Foundation administers its annual award program without bias toward race, color, ethnicity, gender, religion, politics, physical disabilities, or natural origin;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 27, 1996, as ORA HIGGINS' YOUTH FOUNDATION DAY in Illinois.

Issued by the Governor October 1, 1996.

Filed by the Secretary of State October 4, 1996.

96-515

PORNOGRAPHY AWARENESS WEEK

Whereas, the U.S. Supreme Court has repeatedly ruled that obscenity is not protected speech under the First Amendment; and

Whereas, pornography can inflict tremendous suffering and damage to individuals, families, business districts, communities, and our nation; and

Whereas, there are state and federal anti-obscenity laws on the books to protect public safety, public morality, and public health; and

Whereas, the obscenity laws are uniquely grounded in community standards;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 27-November 3, 1996, as PORNOGRAPHY AWARENESS WEEK in Illinois.

Issued by the Governor October 1, 1996.

Filed by the Secretary of State October 4, 1996.

96-516

CATHEDRAL OF THE IMMACULATE CONCEPTION DAY

Whereas, the Cathedral of the Immaculate Conception serves as the Mother Church of the Diocese of Springfield in Illinois; and

Whereas, the Cathedral Grade School of the Immaculate Conception, conducted by the Springfield Dominican Sisters, has played a key role in the moral, physical and intellectual development of hundreds of children; and

Whereas, the Cathedral of the Immaculate Conception has provided for the spiritual, educational and cultural needs of thousands of individuals over the last 68 years as envisioned by Bishop James A. Griffin; and

Whereas, the Cathedral of the Immaculate Conception has been maintained under the prudent direction of Bishop Griffin's successors, Bishop William A. O'Connor (1949-1975), Bishop Joseph A. McNicholas (1975-1983) and Bishop Daniel L. Ryan, who was appointed in November 1983 and installed as Bishop in January 1984; and

Whereas, the Cathedral of the Immaculate Conception was dedicated on October 14, 1928; and

Whereas, the Cathedral of the Immaculate Conception has been an important part of the Springfield community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 20, 1996, as CATHEDRAL OF THE IMMACULATE CONCEPTION DAY in Illinois.

Issued by the Governor October 2, 1996.

Filed by the Secretary of State October 4, 1996.

96-517

HISPANIC/LATINO MENTAL HEALTH WEEK

Whereas, more than 40 million Americans of all ages, races, and ethnic backgrounds suffer from mental health problems; and

Whereas, mental illness is often perceived as a social stigma in the Hispanic/Latino community and it is of the utmost importance to increase public awareness and understanding of mental wellness; and

Whereas, Hispanic/Latino people often struggle to overcome language and other barriers placed before them; and

Whereas, the Latino Family Institute is working with the Department of Mental Health and Developmental Disabilities, the Chicago Department of Public Health, Saint Mary of Nazareth Hospital, St. Anthony Hospital, and other agencies and hospitals to provide depression and anxiety screenings, lectures, consumer information, and symposiums;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 7-12, 1996, as HISPANIC/LATINO MENTAL HEALTH WEEK in Illinois to increase mental health wellness for all cultures.

Issued by the Governor October 2, 1996.

Filed by the Secretary of State October 4, 1996.

96-518

REFUGEE WEEK

Whereas, the United States has long been a symbol of hope and a source of substantial aid for refugees around the world; and

Whereas, the United States reaches the 16th anniversary of the Refugee Act; and

Whereas, October 21, 1996, marks the 52nd anniversary celebration of the United Nations; and

Whereas, Illinois is the fifth largest state in the nation in refugee population with more than 95,000 refugees arriving since 1975; and

Whereas, the Illinois Department of Public Aid has for 16 years administered the Refugee Resettlement Program and coordinated employment and adjustment services through a consortium of community-based organizations throughout the state; and

Whereas, the Illinois Department of Public Health has for 16 years administered and coordinated health services for refugees at local health screening centers throughout the state; and

Whereas, Illinois and the nation remain committed to assisting refugees and to contributing toward international relief efforts and will support the United Nations High Commissioner for Refugees; and

Whereas, the demise of communism and the triumph of democratic movements around the world have brought about an era of promise and opportunity. Heartened by this knowledge, let us build on the progress we have made so that all peoples might enjoy the blessings of the freedom and security in their respective homelands;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim the week of October 21, 1996, as REFUGEE WEEK in Illinois and encourage all Illinoisans to observe this week with appropriate programs, ceremonies, and

activities.

Issued by the Governor October 2, 1996.

Filed by the Secretary of State October 4, 1996.

96-519

SUNNY RIDGE FAMILY CENTER DAY

Whereas, the Sunny Ridge Family Center has provided care to children and families for more than 70 years; and

Whereas, the Sunny Ridge Family Center serves some 600 families per year and specializes in residential treatment of teenage boys, domestic adoption, family counseling, maternity services, intercountry adoptions, specialized foster care for infants, and a program for medically and physically handicapped children; and

Whereas, Sunny Ridge Family Center also provides family focused services such as an out-patient counseling program, adoption services, family life education seminars, services to unmarried parents, and consultation services to churches, schools, and other community groups; and

Whereas, Sunny Ridge Family Center will celebrate its 70th anniversary on October 11, 1996:

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 11, 1996, as SUNNY RIDGE FAMILY CENTER DAY in Illinois.

Issued by the Governor October 2, 1996.

Filed by the Secretary of State October 4, 1996.

Rules acted upon during the quarter of October 1 through December 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

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